

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FAIZ MOHAMMAD AHMED)
AL KANDARI, *et al.*)
Plaintiffs,)
v.) Civil Action No. 02-CV-0828 (CKK)
UNITED STATES OF AMERICA,)
et al.,)
Defendants.)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Faiz Mohammed Ahmed Al Kandari that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify family members of detainees as well as certain U.S. Government personnel in order to protect the personal security of those

individuals.¹ I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 22 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN

¹ I have also removed a document written entirely in a foreign language because I do not have a translator to assist in redacting personally identifying information.

22 Oct 04

MEMORANDUM

From: Legal Advisor

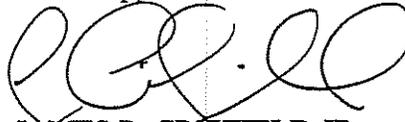
To: Director, Combatant Status Review Tribunal

Subj: ADDENDUM LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW
TRIBUNAL FOR DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Col. [REDACTED] memo of 21 Oct 04
(2) Maj. [REDACTED] memo of 15 Oct 04

1. Based on the information in enclosure (2) the Tribunal President has concluded the proceedings.
2. The proceedings of the Tribunal are legally sufficient and no further corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.


JAMES R. CRISFIELD JR.
CDR, JAGC, USN

MEMORANDUM FOR RECORD

21 Oct 04

From: President, Tribunal Team #5

TO: Director, Combatant Status Review Tribunals

SUBJECT: Detainee [REDACTED] Witness Approval by Convening Authority

Ref: Convening Authority Memorandum of 5 Oct 2004 (OARDEC/Ser: 0179)

1. On 25 Sep 04, Detainee [REDACTED] requested two witnesses to testify on his behalf during his Combatant Status Review Tribunal. Based on the detainee's proffer of how these detainees would testify, I denied the detainee's request, ruling that the testimony of the two witnesses would be irrelevant to the question of whether Detainee [REDACTED] is properly classified as an enemy combatant. The detainee subsequently elected not to participate in his hearing, so the hearing was held *in absentia* on 29 Sep 04.

2. On 5 Oct 04, the Convening Authority returned the record of proceedings for Detainee [REDACTED] to my tribunal panel after finding that one of the two witnesses, [REDACTED] was a relevant witness¹. The panel was ordered to make a determination of reasonable availability for this witness. As part of this process, the detainee's Personal Representative was directed to meet with the detainee and obtain information needed to locate this witness. At this meeting, the detainee told his Personal Representative that he did not want to participate in his Tribunal. After conversing with the detainee, the Personal Representative informed me that Detainee [REDACTED] does not wish to appear before the Tribunal or call his witness.

3. Based on the above information, I first find that the detainee no longer wishes to call [REDACTED] as a witness for his Tribunal. Therefore, the question of whether the witness would have been relevant or reasonably available is moot. Alternatively, I find that the witness is not reasonably available since the detainee refused to provide his Personal Representative with information necessary to locate him.

4. The decision of Tribunal Panel #5 of 29 Sep 04 stands. The panel has determined that Detainee # [REDACTED] is properly classified as an enemy combatant.

Respectfully submitted,

[REDACTED] Tribunal #5 Member, for,
Col, USAF
Tribunal #5 President

¹ In his 15 Oct 04 Memorandum for Record, the Personal Representative of Detainee [REDACTED] states that the Convening Authority "authorized the two requested witnesses." This statement is incorrect. Please refer to Referenced Memorandum from Convening Authority.

Date: 15 October 2004

MEMORANDUM FOR RECORD

TO: CSRT Legal Advisor

FROM: PR23

SUBJECT: Detainee [REDACTED] Witness Approval by Convening Authority

1. On 25 September 2004, detainee [REDACTED] requested two non-detainee witnesses to testify he was not a member of Al Qaida. The first witness was his father and the second witness was Sheik Mohammed Wali Allah Arrahmani. On 26 September 2004 the Tribunal President denied both witness requests because they did not have first hand knowledge of his activities in Afghanistan. On 27 September 2004, detainee [REDACTED] was notified of the Tribunal president's decision and he elected to not participate in the Tribunal. A Tribunal was conducted for this detainee on 29 September 2004 and the results were forwarded to the Convening Authority for approval.
2. On 13 October 2004, the CSRT Legal Advisor was notified that the Convening Authority disagreed with the Tribunal President's decision and authorized the two requested witnesses. On 15 October, I meet with detainee [REDACTED] to inform him of the decision of the Convening Authority. Based on this decision, I inquired if he would like to participate in the Tribunal and call his witnesses. Detainee [REDACTED] stated he did not want to participate in the Tribunal and explained other detainees had spoke with attorneys and were told to not appear before the Tribunal or to speak to the Personal Representative. He stated he did not believe the Tribunals were real and he was electing wait until an attorney represented him. He also stated he though this was a trick to get him to talk. He was firm in his decision and the interview was terminated.
3. Despite the new information, detainee [REDACTED] still does not wish to appear before the Tribunal or call the approved witnesses.

[REDACTED] Maj, USAF
Personal Representative #23

2741
Enclosure (2)



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0179
5 October 2004

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From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

Encl: (1) CDR J. R. Crisfield ltr of 4 October 2004 (w/enclosures)

1. The record of proceedings for the subject detainee is returned to Tribunal Panel #5. The Tribunal President is directed to make a determination of the reasonable availability of the first witness requested by the detainee, [REDACTED]. If the witness is not reasonably available and cannot provide evidence as an alternative to live testimony, then the Tribunal will return their original report, along with a statement from the President regarding his determination on reasonable availability, to the Legal Advisor for review in accordance with reference (b). If the witness is reasonably available or can provide evidence as an alternative to live testimony, then the Tribunal will re-convene to consider the witness's testimony or other evidence, deliberate, and vote on whether the detainee shall continue to be classified as an enemy combatant.
2. If any members of Tribunal Panel 5 are not available to attend further proceedings, the OARDEC Forward Commander is authorized to assign new members to the Panel for purposes of this Tribunal provided that such new members have been previously assigned to a Tribunal panel by the Director. Any Tribunal members who were not present for the original Tribunal proceedings will listen to the audiotapes of those proceedings prior to deliberation and voting.
3. Prior to re-convening, the Personal Representative will notify the detainee of the President's decision regarding the witness and allow the detainee the opportunity to attend the proceedings at which the witness testifies, if he so chooses.

J. M. McGARRAH
RADM, CEC, USN

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2742

4 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

1. A legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and voluntarily elected not to participate in the Tribunal proceedings.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-3, R-4, R-5, and R-6 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee requested that two witnesses be produced to testify at the Tribunal. The Tribunal President denied the requests.

The first requested witness was the detainee's father. The President's justification for determining that the first requested witness was not relevant was that he would only testify as to the detainee's motive for leaving Kuwait. The President determined that the detainee's motive for leaving Kuwait was not relevant to whether or not he was an enemy combatant. The President also determined that since it was unlikely that the witness's information came from first-hand observation, then his testimony was irrelevant. This decision was faulty for three reasons. First, the detainee's proffer for this witness was more than simply that he could testify to the detainee's motive for traveling from Kuwait to Afghanistan. According to the detainee, his father could also testify to, "the details of my trip and all the things I did." Certainly, the detainee's activities while in Afghanistan would be relevant to the Tribunal's decision. Second, even if the only substance of the witness's testimony would be the detainee's motive for leaving Kuwait, this testimony would still be relevant under the circumstances. The President innocently confused two variations on the relevance of motive. While a detainee's motive for joining or supporting al Qaeda is irrelevant to a determination of their status as an enemy combatant, a detainee's motive for traveling to Afghanistan could be relevant to

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

determining what they did there once they arrived. In other words, if the detainee had claimed that he was forced to join al Qaeda, then his motive would be irrelevant to the Tribunal's purpose. In this case, however, the detainee claimed that he was not a member of al Qaeda. Under these circumstances, the detainee's motive for traveling to Afghanistan is relevant. If a witness testifies under oath that the detainee's motive for going to Afghanistan was to do something other than join al Qaeda, that evidence could have some tendency, however slight, to make it less likely that the detainee joined al Qaeda in Afghanistan. Third, there is no basis in references (a) or (b) for requiring first hand knowledge of a matter in issue before being allowed to testify about it at the Tribunal. Reference (b) states that the Tribunal is not bound by the rules of evidence and the Tribunal is "free to consider any information it deems relevant and helpful." It may consider hearsay evidence. Indeed, the evidence considered persuasive by the Tribunal is made up almost entirely of hearsay evidence recorded by unidentified individuals with no first-hand knowledge of the events they describe. There should not be a double standard for the Government's ability to present hearsay and the detainee's ability to present hearsay evidence. The witness is relevant to the Tribunal's decision.¹

With regard to the request for the second witness, the Tribunal President determined that the witness was not relevant based on the detainee's failure to provide a proffer of the witness's expected testimony. Due to the lack of information about this witness's testimony, the President had no choice but to deny the request.

The detainee made no other requests for witnesses or other evidence.

e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings of the Tribunal are not sufficient and corrective action, as described below, is required.

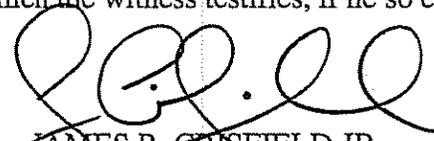
3. I recommend that the Record of Proceedings be returned to the Tribunal President with direction to make a determination of the reasonable availability of the first witness requested by the detainee, [REDACTED]. If the witness is not reasonably available, then the Tribunal should return their original report, along with a statement from the President regarding his determination on reasonable availability, to the Legal Advisor. If the witness is reasonably available, then the Tribunal should re-convene to consider the witness's testimony. If any members of the Tribunal panel were not present for the original Tribunal proceedings they should listen to the audio tapes of those proceedings prior to deliberations and voting. Prior to re-convening, the Personal

¹ Exhibit R-2 is a list of interrogatories answered by the detainee's family that discusses, in part, the detainee's motives for traveling from Kuwait to Afghanistan. I would have recommended that the introduction and consideration of this exhibit cures any prejudice from the Tribunal President's denial of the first witness request but for the fact that the Tribunal stated in its decision report that, "The information in the questionnaire was unsworn and provided no usable evidence."

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

Representative should notify the detainee of the President's decision and allow the detainee the opportunity to attend the proceedings at which the witness testifies, if he so chooses.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN

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Department of Defense
Director, Combatant Status Review Tribunals

17 Aug 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #5

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Air Force; President

[REDACTED], Lieutenant Colonel, U.S. Air Force; Member
(JAG)

[REDACTED], Lieutenant Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

30 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #5

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #5 of 17 August 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (Not Used)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 29 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al-Qaida as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]
[REDACTED], Colonel, USAF
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #5

ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al-Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified summary of evidence presented to the Tribunal by the Recorder indicated that the detainee:

- a. Traveled to Afghanistan to participate in Jihad.
- b. Has family ties to an al-Qaida cell that killed a U.S. soldier in Kuwait.
- c. Recruited personnel to participate in the Jihad in Afghanistan and arranged their travel.
- d. Had resided at a guesthouse with known al-Qaida operatives while in Pakistan.
- e. Received weapons training at the Khaldan Training camp in Afghanistan where Usama bin Laden personally provided religious instruction and training.
- f. Received additional training at the al Farouq training camp to include explosives. Usama bin Laden was also at this camp along with individuals who were involved in the 11 September 2001 attacks.

The detainee chose not to participate in the Tribunal process. He had requested two witnesses. The Tribunal President found the requested witnesses not to be relevant to the Tribunal process. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-16.

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ISN: _____
Enclosure (1)
Page 1 of 3

2749

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED]	Not Relevant	No*
Sheik Mohammed Ali Allah Arrahmani	Not Relevant	No*

* The Tribunal President denied both witness requests. [REDACTED] is the Detainee's father. The Detainee indicated that the father would know the reason why the Detainee had left Kuwait. The President considered the request but since the reason for the Detainee leaving Kuwait was not a factor in the Detainee's enemy combatant determination, the President ruled that the witness' testimony was not relevant to the Tribunal's decision so the request was denied. The Detainee failed to provide any relevancy justification for his witness request of Sheik Mohammed Ali Allah Arrahmani, so the Tribunal President denied the witness request.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 was the response to a questionnaire that had been provided to the Detainee's family. The information in the questionnaire was unsworn and provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings. The Personal Representative spent 45 minutes explaining the process to the Detainee. The Detainee originally indicated that he wanted to participate. However, after the Tribunal President denied his witness request, the Detainee changed his mind and chose not to participate in the Tribunal process, as indicated in Exhibit D-a.
- c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al-Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Colonel, USAF
Tribunal President

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DETAINEE ELECTION FORM

Date: 24 Sept 2004

Start Time: 1800 hrs

End Time: 2030

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES -- BOTH

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

On 24 Sept 2004, detainee [REDACTED] indicated that he would participate in the Tribunal and he requested to call 2 non-detainee witnesses. The Tribunal President denied his witness request on 26 Sept 2004 and ruled that they were not relevant. (See Attached Witness Relevancy Request documentation) On 27 Sept 2004, detainee [REDACTED] was notified of the Tribunal president's decision and he elected to not participate in the Tribunal. He also stated that he did not want me to call witnesses, make statements or present evidence on his behalf.

Personal Representative: [REDACTED]

Date: 25 September 2004

MEMORANDUM FOR RECORD

TO: CSRT President For Detainee [REDACTED]

FROM: PR#23

SUBJECT: Detainee [REDACTED] Witness Relevancy Request

1. Detainee [REDACTED] requested two non-detainee witnesses to testify that he is not a member of Al Qaida. The first witness is his father and immediate family. The detainee wrote, "They know the reason I left Kuwait to go to Afghanistan and the details of my trip and all the things I did." The detainee provided the following contract information for his family:

FATHER:

[REDACTED]
Kuwait: [REDACTED]

Phone: [REDACTED]

2. Detainee [REDACTED] also requested to call Sheik Mohammed Wali Allah Arrahmani as a witness. He claimed that his address is in a personal book that was with him at the time of his capture. Interrogators in Baghram told him that this book was delivered to the US forces. I contacted the Camp Delta Military Police Investigation Office where detainee personal effects are kept and they had no personal effects listed for Detainee [REDACTED] in their possession. However, if this witness request is approved, the Detainee's family might be able to contact this witness.
3. Detainee [REDACTED] provided this request in writing. The Detainee's hand written witness request along with the associated translation are attached for reference.

[REDACTED]
[REDACTED] Major, USAF
Personal Representative #23

Witnesses:

1. My family - My father. [REDACTED]
[REDACTED]

KUWAIT: [REDACTED]
[REDACTED]

Phone: [REDACTED]

Reason: They know the reason I left KUWAIT to go to AFGHANISTAN and the details of my trip and all the things I did.

2. CHEIK MDHAMED WALI ALLAH ARRAHMANI: His address is in my personal book that was with me at the time of my capture and was taken from me by the Afghani forces, and then delivered to the U.S. forces. I was informed of this by the American interrogators in Bagram.

Military Police Investigator - Other

MEMO FOR RECORD

TO: PR-23

SUBJECT: WITNESS REQUEST FROM ISN # [REDACTED]

DATE: 26 SEP 2004

ISN# [REDACTED] has requested 2 witnesses. The first is his father who the detainee states knew the details of his trip. However there is no indication that his father knew this information from first hand observation but most likely from what either the Detainee or others had told him were the details of his trip. Unless the father has first hand knowledge of the trip, then the information would be not be relevant and the request for this witness is denied.

The second witness is for Sheik Mohammed Ali Allah Arrahmani but no reason for being requested was provided. Again, unless they have first hand knowledge of what the Detainee did during his trip, the information would be not be relevant and therefore the request for witness is denied.

[REDACTED]
Colonel, USAF
Tribunal President

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (21 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL KANDARI,
Faiz Mohammad Ahmed

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.

2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."

3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is a member of al Qaida.

a. The detainee is a member of al Qaida:

1. The detainee traveled to Afghanistan and provided religious instruction at the al Farouq training camp in the September 2001 timeframe.
2. The detainee has family ties to an al Qaida cell that killed a U.S. soldier in Kuwait.
3. The detainee recruited personnel to participate in the Jihad in Afghanistan and arranged their travel, as well as his own, from the United Arab Emirates to Pakistan.
4. Once in Pakistan, the detainee and the others he had recruited resided at a guesthouse with known al Qaida operatives.
5. The detainee later traveled into Afghanistan and received weapons training at the Khaldan training camp. Usama Bin Laden personally provided religious instruction and trainee at this camp.

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6. The detainee then received further training, including with explosives, at the al Farouq training camp. Usama Bin Laden was also present at this camp, as were individuals who were involved with the 11 September 2001 attacks.

7. The detainee was in the Tora Bora mountain region in October or November 2001.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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2757

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7. Fayiz Mohammed Ahmed Al Kandari



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**QUESTIONS FOR THE FAMILY OF
Faiz Mohammed Ahmed Al Kandhari**

1. Please provide Al Kandhari's biographic information: given name, other names he is known as, date of birth, place of birth, home address.
2. Please provide the family's information: father, mother, brothers, sisters, wife (include date of marriage), and children.
3. Did Al Kandhari tell his family that he was going to travel to Afghanistan or Pakistan? If so, what did he say?
4. Why did Al Kandhari say he was leaving Kuwait to go to Afghanistan/Pakistan?
5. Did Al Kandhari say he was going to travel with any one or meet anyone upon his arrival in Afghanistan/Pakistan?
6. Do you know how Al Kandhari traveled to Afghanistan/Pakistan?
7. How was the trip funded?
8. What Mosques did Al Kandhari attend while in Kuwait?
9. Did he mention any specific Imams?
10. What social groups did Al Kandhari associate with while in Kuwait?
11. Was Al Kandhari associated with any type of Non Governmental Organization (ie. Al - Wafa) while in Kuwait?
12. Did Al Kandhari travel with anyone to Afghanistan/Pakistan?
13. Did he say if he was supposed to meet anyone in Afghanistan/Pakistan?
14. Did Al Kandhari contact the family (call / send mail) from Afghanistan or Pakistan? If mail sent, are you willing to provide copies to U.S government representatives?
15. Why did Al Kandhari travel to Bosnia? When?
16. Did he travel with anyone? Who?
17. Why did Al Kandhari travel to Bahrain? When?
18. Are there family members in Bahrain?

19. Did Al Kandhari say why he went to Afghanistan in 1997 and again in 2001?
20. Did Al Kandhari travel to any other countries? Why and When?

ANSWER TO THE QUESTIONS FOR THE FAMILY OF
FAIZ MOHAMMED AHMED AL KANDHARI

1. Name : Faiz Mohammed Ahmed Al Kandhari
No other names :
Date of birth : [REDACTED] 1975
Place of birth : Kuwait
Home Address : [REDACTED]
2. Father Name : [REDACTED]
Mother Name : [REDACTED]
Brothers Names : [REDACTED]
Sisters Names : [REDACTED]
- Wife name : Not married
Children Name : N/A
3. Yes, he did tell us about his trip to Afghanistan, and he said that he want to go to Afghanistan to contribute some money to make a small project (digging a well) for the poor people, for the sake of his sick mother, who has a serious sickness (cancer) and to have more blessing from God on her behalf, so he went there to assist and to help refugees and poor people in Afghanistan.
4. He says that he is leaving Kuwait to go to Afghanistan for charity work.
5. No, we are not aware that he might meet anyone upon his arrival to Afghanistan.
6. Yes, he traveled by Airplane to Pakistan and then to Afghanistan.
7. The family funded his trip.
8. He normally goes to the mosque in the neighborhood.
9. No, he did not mentioned any specific Imam.
10. He participate to work with Salwa Charitable Committee.
11. No, he wasn't associated with any type of non-governmental organizations such as Al Wafa while he was in Kuwait except the Salwa Charitable Committee.
12. He did not traveled with anyone to Afghanistan.
13. No, he did not say that he supposed to meet anyone in Afghanistan or in Pakistan.
14. Yes, he did call several times by phone, he did not sent any mail from there.
15. He traveled to Bosnia for charitable work, in 1994.

16. To the best of our knowledge, he did not traveled with anyone.
17. He did traveled to Bahrain with us as a family long time ago when he was about 13 years old to visit close friends to us there.
18. There is no family members in Bahrain but very close friends, like relatives.
19. Yes, he went to Afghanistan in 1997 and 2001 for charitable work.
20. He did traveled with us many times to European countries for tourism and also to Saudi Arabia with us and sometimes alone to visit the Holy Mosque and Mecca, we have no specific dates to these journeys.

الجمهورية العربية السورية
دولة الكويت

الرقم المدني: ٢٧٥٠٦١٣٠٠٣٨٦



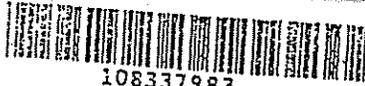
الاسم
فأيز محمد أحمد
الكندي



المنشأه كويتي
البلد [REDACTED]
تاريخ انتهاء الصلاحيه: ٢٠١٢ / ٨ / ٧



B +



108337983

+++

State of Kuwait

Civil ID Card

Civil No. 275060300286
Name Fayez Mohammed Ahmed Al Kandari
Nationality Kuwait
Date of birth [REDACTED] 1975 Sex Male
Expiry Date 7/8/2003

Overleaf:

Civil No. of the concerned party 275060300286
Nationality No. 68510
Address [REDACTED]
Avenue [REDACTED]
Building/ Plot [REDACTED] Type of Unit [REDACTED]
Unit No. -- Floor --
Tel. No. [REDACTED] Blood Group B +

Personal Representative Review of the Record of Proceedings

I acknowledge that on 29 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name

29 Sept 2004
Date

[REDACTED]
Signature

ISN # [REDACTED]
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDUL KHALED AHMED SAHLEH)
AL BEDANI, *et al.*)
Petitioners,)
v.) Civil Action No. 04-CV-1194 (HHK)
GEORGE W. BUSH,)
President of the United States, *et al.*,)
Respondents.)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

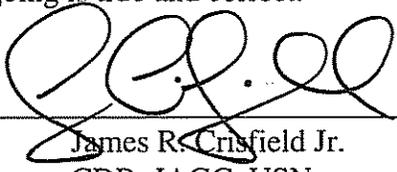
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abdul Khaled Ahmed Sahleh Al Bedani that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not

attached hereto. I have redacted information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 1 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser:
30 September 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

29 Sep 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004

(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #8 of 13 September 2004

(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

a. The detainee was properly notified of the Tribunal process and voluntarily elected not to participate in the Tribunal.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibit R-3 and R-4 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant. Although the Tribunal expressed its opinion that the FBI's letter was "without merit" they do not have the authority to override an originating agency's determination that certain information should be withheld from the Tribunal. The decision to withhold information from a Tribunal is left solely to the discretion of the originating agency by reference (b). The Tribunal's concern about the redactions is especially mystifying since it is apparent from a review of the documents that the only information redacted by the FBI was the names of individuals participating in the interrogations.

d. The detainee made no requests for witnesses or other evidence.

e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



James R. Crisfield Jr.
CDR, JAGC, USN

UNCLASSIFIED



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #8

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Marine Corps Reserve; President

[REDACTED], Colonel, U.S. Army; Member

[REDACTED], Lieutenant Colonel, JAGC, U.S. Army; Member
(JAG)

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

22 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.

A handwritten signature in black ink, appearing to read "David L. Taylor".

DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) (3) and (4).

(U) TRIBUNAL PANEL: #8

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #8 of 13 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO) - NA
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 20 September 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant, as defined in reference (c).

2. (U) On 20 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida, as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Marine Corps
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #8
ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee stated that he traveled to Afghanistan for military training so that he could participate in Jihad. He stayed in bunkers during the bombing of the Tora Bora region and was subsequently wounded. The Detainee was picked up by the local Afghans and turned in to the Northern Alliance. The Detainee chose not to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, and made no statement. The personal representative verified that the linguist was of the correct dialect to translate the CSRT information to the Detainee. However, based on the Detainee's silence, the Personal Representative had to infer that the Detainee did not wish to participate.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-14.
- b. Testimony of the following persons: None
- c. Statement from the Detainee: None

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses and requested no additional evidence be produced; therefore, no rulings on these matters were required.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence.

The Tribunal found the following unclassified evidence unpersuasive in making its determinations: Exhibit R-2, a request from the Federal Bureau of Investigation to redact certain information from its recorded interview concerning the Detainee from the "FBI Form 302" or "FD 302" was not helpful to the Tribunal in determining whether the Detainee was properly classified as an enemy combatant. To be more specific, the mere declaration that "inappropriate" release of the information "could damage the national security of the United States and compromise ongoing FBI investigations," without a discussion of the underlying information and the reasons why its release to the Tribunal would be damaging to U.S. national security or compromising to current future FBI investigations, was not helpful to the Tribunal. The Tribunal therefore found Exhibit R-2 to be without merit.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings, but chose not to participate in the Tribunal process, as indicated in Exhibit D-a. The Tribunal questioned the Personal Representative closely on this matter and was satisfied that the Personal Representative had made every effort to ensure that the Detainee had made an informed

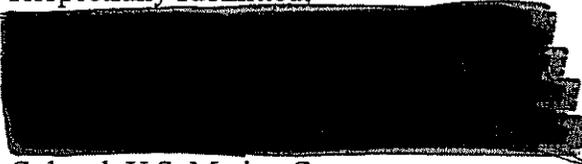
decision. As stated previously, the Personal Representative had to infer that the Detainee chose not to participate in the process based on his silence and complete lack of cooperation.

c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al-Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Marine Corps
Tribunal President

FOUO

Recorder Exhibit List
For

ISN [REDACTED]

#	Title	Classification
R-1	Unclassified Summary	UNCLASSIFIED
R-2	FBI Request for Redaction of National Security Information	UNCLASSIFIED
R-3	FBI 302 dtd 7 Oct 02	FOUO//LES
R-4	CITF FM 40 dtd 4 May 04	FOUO//LES
R-5	IIR 2 340 6543 02	SECRET
R-6	IIR 2 340 6528 02	SECRET
R-7	JTF GTMO Regional Team Assessment 17 Mar 04	SECRET//NOFORN
R-8	JTF GTMO Baseball Card: Detainee [REDACTED] dtd 27 May 04	SECRET//NOFORN
R-9	Enemy Combatant Review Checklist: Detainee [REDACTED]	SECRET//NOFORN
R-10	Knowledgeability Brief 121257Z May 02	SECRET
R-11	JTF GTMO MFR dtd 2 Nov 02	SECRET
R-12	Analyst Support Package: Detainee [REDACTED] dtd 16 Sep 04	SECRET//NOFORN
R-13	CITF CDR Memorandum 03 Jun 04	SECRET//NOFORN
R-14	Analyst Support Package: Detainee [REDACTED] dtd 19 Aug 04	SECRET//NOFORN

FOUO

2778

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (16 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal - AL BEDANI, Abdul Khaled Ahmed Sahleh

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida.
 - a. The detainee is associated with al Qaida:
 1. The detainee is a Saudi who traveled to Kabul, Afghanistan in early 2001. He traveled to Kabul via Quetta, Pakistan and Kandahar, Afghanistan.
 2. The detainee was recruited by a known al Qaida/Taliban recruiter to travel to Afghanistan for training for participation in Jihad.
 3. The detainee states that he went to Afghanistan to receive military training.
 4. The detainee was in a guesthouse in Kabul awaiting training when he heard of attacks on America and possibility of retaliation and decided to leave Afghanistan immediately.
 5. The detainee stayed in various bunkers during the bombing of the Tora Bora region. While in these bunkers, the detainee was in the presence of personnel armed with rifles and rocket propelled grenades (RPGs). Some of these other men engaged in fighting against the Northern Alliance.
 6. The detainee was wounded during the bombing in Tora Bora and was then picked up by local Afghans who turned him over to the Northern Alliance.

UNCLASSIFIED

Page 1 of 2

2779

EXHIBIT R-1

UNCLASSIFIED

b. The detainee participated in military operations against the coalition.

1. Though he denies using any weapons, the detainee admits that he was provided with a rifle while he was in the Tora Bora region.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

2780

Memorandum



To : Department of Defense Date 09/09/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 10/07/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/09/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

Personal Representative Review of the Record of Proceedings

I acknowledge that on 21 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
LTC, USAF
[REDACTED]
Signature

21 SEP 04
Date

ISN # [REDACTED]
Enclosure (5)

number (ISN) in this case. The first one is in paragraph "f." of the legal sufficiency review -- the correct ISN is "554," but the author inadvertently typed "544." The ISN in the subject line of this document is correct. Also, the FBI redaction certificate (exhibit R-2) has the correct ISN in the subject line but inadvertently refers to ISN "574" in the text of the document.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 29 July 2005

Teresa A. McPalmer
Teresa A. McPalmer
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 615

13 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 554**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #554 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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2786

13 Jan 05

MEMORANDUM

From: Assistant Legal Advisor
To: Director, Combatant Status Review Tribunal
Via: Legal Advisor *SLC*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN #554

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #13 of 4 Oct 2004
(2) Record of Tribunal Proceedings

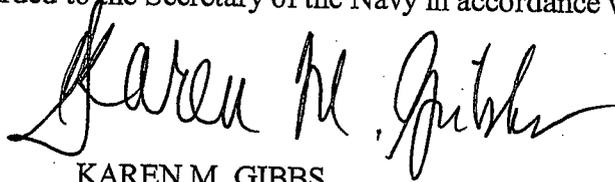
1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and voluntarily elected not to personally participate in the CSRT. The detainee affirmatively declined to attend the CSRT. However, the detainee provided oral responses to the summary of evidence set forth in Exhibit 1, and requested that his personal representative provide this unsworn statement to the CSRT. See Enclosure (3).
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b).
- d. Note that some information contained in Exhibit R-3 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- e. The detainee did not request that any witnesses be produced. Detainee did request that his passport be produced to support his statement that he was in Afghanistan prior to the attacks of 9-11. However, the passport could not be located through a search of the detainee property room or through a search conducted by Intelligence personnel. Therefore, the CSRT determined that the evidence was not reasonably available.
- f. The Tribunal's decision that detainee #544 is properly classified as an enemy combatant was unanimous.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 554

- g. The detainee's Personal Representative was given the opportunity to review the record of proceedings, and declined to submit post-tribunal comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered the final record of proceedings to be forwarded to the Secretary of the Navy in accordance with reference (b).



KAREN M. GIBBS
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

4 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #13

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Army; President

[REDACTED], Commander, JAGC, U.S. Naval Reserve;
Member (JAG)

[REDACTED], Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

06 December 2004

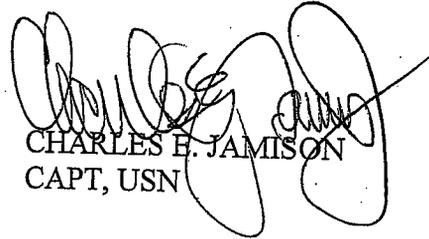
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 554

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED]


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #13

(U) ISN#: 554

Ref: (a) (U) Convening Order for Tribunal #13 of 04 October 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the Detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 04 November 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #554 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this Detainee is a member of, or affiliated with, al Qaida, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Army
Tribunal President

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION**(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL: #13
ISN #: 554 **1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with al Qaida and the Taliban. The Detainee departed Yemen for Afghanistan on 16 July 2002. The Detainee was recruited in Yemen for jihad training in Afghanistan. The Detainee along with others received travel documents and instructions from a facilitator in Yemen. The Detainee received tickets from a facilitator in Yemen. The Detainee along with others were required to leave passport, money, all other forms of identification at a guest house (Mudafa) in Kandahar, Afghanistan in return for a receipt of these inventoried items. The Detainee's name, alias, along with other personal property information was found on a list recovered during raids against al Qaida associated safe houses. The Detainee received training on the Kalashnikov rifle at [REDACTED]. The Detainee received additional military training at another camp located near Jalalabad, Afghanistan. The Detainee participated in military operations against the United States and its coalition partners. The Detainee was assigned to augment Taliban and al Qaida forces already in defensive positions in Tora Bora. The Detainee was armed with a Kalashnikov rifle during the Tora Bora campaign. The Detainee was injured by a United States air strike while retreating to Pakistan with other soldiers. The Detainee's group surrendered to Northern Alliance forces.

The Detainee chose not to participate in the Tribunal process. He called no witnesses, requested one unclassified document, and made an oral statement to his Personal Representative for presentation to the Tribunal. The Tribunal President's evidentiary ruling is explained below. The Detainee, in his verbal statement through the Personal Representative, denied being associated with the Taliban and al Qaida.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

UNCLASSIFIED//~~FOUO~~ISN #554
Enclosure (1)
Page 1 of 3

- a. Exhibits: D-a and R-1 through R-16.
- b. Testimony of the following persons: None
- c. Statement of the Detainee provided through his Personal Representative.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses.

The Detainee requested the following additional evidence be produced:

<u>Evidence</u>	<u>President's Decision</u>	<u>Produced?</u>
passport	not reasonably available	no*

* The Tribunal President ordered the unclassified document requested by the Detainee to be produced. The Personal Representative conducted a search for the Detainee's passport and determined that it was not being held in the Detainee property room. Additionally, he communicated with the intelligence personnel and found it not to be available off island either. Therefore, the passport was not considered to be reasonably available. As such, the document was not produced for the hearing.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 through R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibits R-2 and R3 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the Detainee's statement as provided through his Personal Representative. A summarized transcript of the Detainee's unsworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he was not associated with the Taliban or al Qaida. He journeyed to Afghanistan two weeks prior to the attacks on September 11th, 2001. The Detainee stated that he went to Afghanistan to receive training that he was unable to get in Yemen. He traveled to Sanaa alone and was provided a passport, tickets, and money from an unidentified person. At a guesthouse in Kandahar, Afghanistan, the Detainee had to leave his passport and money but he never received a receipt for them.

The Detainee stated that he received training on the Kalashnikov rifle at [REDACTED] and at another location, which was not a camp but just a place to get used to holding a weapon. The Detainee denied participating in any military operations against the U.S. or its coalition partners but he was in Tora Bora. When he fled, he was holding a weapon but there were no bullets. The Detainee admitted to retreating to Pakistan with other soldiers but they were bombed and he was the sole survivor. He was taken by the U.S. forces at the hospital in Pakistan.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The Detainee initially chose to participate in the Tribunal process, as indicated in Exhibit D-a. However, when the Detainee arrived for the Tribunal, he indicated that he did not desire to participate. There was no reason to believe that he did not understand the process.
- c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

[REDACTED]
Colonel, U.S. Army
Tribunal President

Summarized Unsworn Detainee Statement

The Tribunal President read the Hearing Instructions and opened the Unclassified session of the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal.

The Recorder presented Exhibits R-1 and R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that she had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Tribunal President stated for the record that the Detainee has elected not to participate in this tribunal proceedings.

The Tribunal President stated for the record that the Detainee requested to have his passport to prove he was in Afghanistan before 9-11. The passport was not produced for this hearing.

The Personal Representative read a statement on behalf of the Detainee by reading each point on the Unclassified Summary of Evidence.

Tribunal President: Personal Representative did the Detainee desire to have you present information on his behalf.

Personal Representative: Yes Ma'am

Tribunal President: Please do so at this time.

3.a. The Detainee is associated with the Taliban and al Qaida.

Not True

3.1. The Detainee departed Yemen for Afghanistan on 16 July 2002

I am aware of the attacks on New York and I went to Afghanistan prior to those attacks by two weeks.

In Yemen the military service was compulsory. I was rejected due to a head injury I sustained in a car accident. I felt it was important in coming of age. I tried to go to college but the head injury prevented from concentrating so I went to Afghanistan for weapons training not to fight anyone. I could not get this kind of training in Yemen.

3.2. *The Detainee was recruited in Yemen for jihad training in Afghanistan.*

No that is False

3.3. *The Detainee along with other received travel documents and instructions from a facilitator in Yemen.*

I went to Sanaa alone to arrange my travel I am not sure if the facilitator helped others.

3.4. *The Detainee received tickets from a facilitator in Yemen.*

I don't know who had the tickets produced. He was the person that gave me money to make my travel to Afghanistan.

3.5. *The Detainee along with others were required to leave passport, money, all other forms of identification at a guest house (Mudafa) in Kandahar, Afghanistan in return for a receipt of these inventoried items.*

I never received any items but I was asked to leave them at the guest house.

3.6. *The Detainee's name alias, along with other personal property information was found on a list recovered during raids against al Qaida associated safe houses.*

I am not sure what a guesthouse is, but I have no connection or ties al Qaida.

3.7. *The Detainee received training on the Kalashnikov rifle at [REDACTED]*

Yes this is true

3.8. *The Detainee received additional military training at another camp located near Jalalabad, Afghanistan.*

That place is not a camp and that was an interpreter error that was something discussed during my interrogations. It was only to get used to holding a weapon. There was no firing weapons at that camp.

3.8.b. *The Detainee participated in military operations against the United States and its coalition partners.*

No

3.8.b.1. *The Detainee was assigned to augment Taliban and al Qaida forces already in defensive positions in Tora Bora.*

I never aided al Qaida or the Taliban, but I was in Tora Bora

3.8.b.2. The Detainee was armed with a Kalashnikov rifle during the Tora Bora campaign.

I was fleeing for my life with many other people to Tora Bora to avoid the bombing that was imminent. It was in Tora Bora when I heard of the attacks in New York City on September 11. I was holding a weapon but I had no bullets.

3.8.b.3 The Detainee was injured by a United States air strike while retreating to Pakistan with other soldiers.

I went with a group to Pakistan to go home, we were bombed and I was the sole survivor. I had no participation with al Qaida or the Taliban or anyone that was a soldier.

3.8.b.4. The Detainee's group surrendered to Northern Alliance forces.

Not True, I was in a hospital Pakistani villagers in Jalalabad and the American caught me in the hospital, I was caught in a war zone but had nothing to do with the war.

The Tribunal President confirmed that the Personal Representative had no further evidence to present and that the Detainee no previously approved witnesses to present to the Tribunal.

The Tribunal President concluded the Tribunal session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.


Colonel, U.S. Army
Tribunal President

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Combatant Status Review Board

TO: Tribunal Member

FROM: OIC, CSRT (13 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL SANI, Fahmi Salem Said.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida and the Taliban and participated in military operations against United States and coalition partners.
 - a. The detainee is associated with an al Qaida and the Taliban:
 1. The detainee departed Yemen for Afghanistan on 16 July 2002.
 2. The detainee was recruited in Yemen for jihad training in Afghanistan.
 3. The detainee along with others received travel documents and instructions from a facilitator in Yemen.
 4. The detainee received tickets from a facilitator in Yemen.
 5. The detainee along with others were required to leave passport, money, all other forms of identification at a guest house (Mudafa) in Kandahar, Afghanistan in return for a receipt of these inventoried items.
 6. The detainee's name, alias, along with other personal property information was found on a list recovered during raids against al Qaida associated safe houses.
 7. The detainee received training on the Kalashnikov rifle at [REDACTED]
 8. The detainee received additional military training at another camp located near Jalalabad, Afghanistan.
 - b. The detainee participated in military operations against the United States and its coalition partners.
 1. The detainee was assigned to augment Taliban and al Qaida forces already in defensive positions in Tora Bora.

Exhibit R1

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Page 1 of 2 2799

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2. The detainee was armed with a Kalashnikov rifle during the Tora Bora campaign.
3. The detainee was injured by a United States air strike while retreating to Pakistan with other soldiers.
4. The detainee's group surrendered to Northern Alliance forces.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Memorandum



To : Department of Defense Date 10/12/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 574 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 04/22/2002
FD-302 dated 05/09/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

Exhibit R2

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/12/2004

If you need additional assistance, please contact
Asst. Gen. Counsel [REDACTED] ;
[REDACTED] or Intelligence Analyst
[REDACTED] , [REDACTED]
[REDACTED] Intelligence Analyst [REDACTED] ,
[REDACTED]

Personal Representative Review of the Record of Proceedings

I acknowledge that on 06 November 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #554.

I have no comments.

My comments are attached.

Lt Col  USAF
Name

06 NOV 04
Date


Signature

ISN #554
Enclosure (5)

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 16 August 2005

Teresa A. McPalmer

Teresa A. McPalmer
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 1039

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15 MAR 2005

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN #555

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #555 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John B. Wiegmann)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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14 Feb 05

MEMORANDUM

From: Assistant Legal Advisor

To: Director, Combatant Status Review Tribunal

Via: Legal Advisor *SLC*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN #555

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #12 of 29 September 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

a. The detainee was properly notified of the Tribunal process and elected to participate. *See* exhibit D-a of Record of Tribunal Proceedings. The detainee also provided the Tribunal with a sworn verbal statement in question and answer format. *See* enclosure (3) of Record of Tribunal Proceedings. The Tribunal considered the detainee's statement in its deliberations.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibits R-4 through R-10 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.

d. The detainee did not request that any witnesses or evidence be produced.

e. The Tribunal's decision that detainee #555 is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit post-tribunal comments to the Tribunal. *See* enclosure (5) of Record of Tribunal Proceedings.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

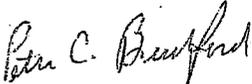
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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN #555

3. I recommend that the decision of the Tribunal be approved and the case be considered final.


PETER C. BRADFORD
LT, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Marine Corps Reserve; President

[REDACTED] Lieutenant Colonel, JAGC, U.S. Army;
Member (JAG)

[REDACTED] Lieutenant Colonel, U.S. Air Force; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA.
APO AE 09360

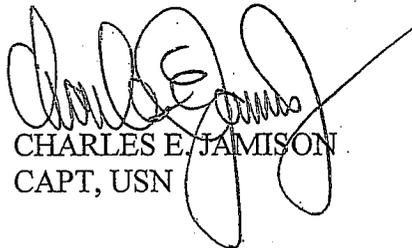
17 December 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander 555

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED].


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

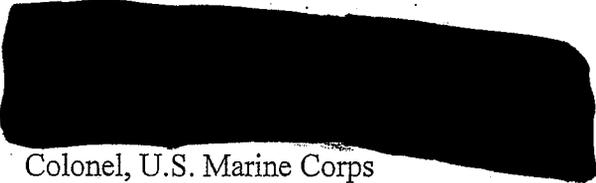
(U) TRIBUNAL PANEL: #12

(U) ISN#: 555

Ref: (a) (U) Convening Order for Tribunal #12 of 29 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 10 December 2004 by references (a) and (b) to make a determination as to whether the Detainee meets the criteria to be designated as an enemy combatant, as defined in reference (c).
2. (U) On 10 December 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #555 is properly designated as an enemy combatant, as defined in reference (c).
3. (U) In particular, the Tribunal finds that this Detainee was part of, or supporting, the Hezb-e-Islami Gulbuddin (HiG) group, an associated force engaged in hostilities against the United States and its allies, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Marine Corps
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #12
ISN #: _____ 555

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant because he was part of, or supporting, the Hezb-e-Islami Gulbuddin (hereafter, HiG) group, an associated force engaged in hostilities against the United States and its allies. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder alleged that the Detainee traveled to Afghanistan after 11 September 2001. He was identified as a "watchman" for the Taliban, and served on patrol for them. The Detainee was captured by the Northern Alliance in the vicinity of Ghazni, Afghanistan. The Detainee chose to participate in the Tribunal process. He called no witnesses, requested no classified or unclassified documents be produced, and made a sworn verbal statement. The Detainee, in his verbal statement, admitted traveling to Afghanistan after 11 September 2001 and being captured by Northern Alliance forces. He denied any affiliation with the Taliban, however, including serving them as a watchman at any time. He asserted that his primary reason to travel to Afghanistan was to earn money by getting involved in the drug trade. He also testified that he obtained permission to travel from Iran to Afghanistan not via a passport, but by a letter issued by the HiG group. The Detainee explained that one of his Afghan friends helped him to obtain this letter. The letter was partially false in that, even though the Detainee's name and picture were accurate, the letter falsely claimed that his Afghan friend was his brother and that he (the Detainee) was going to visit him in Afghanistan.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, and R-1 through R-23.
- b. Testimony of the following persons: Sworn statement of the Detainee.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witness or that any additional evidence be produced; therefore, no rulings on these issues were required.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The Recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the Detainee's sworn testimony. A summarized transcript of the Detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee admitted traveling to Afghanistan after 11 September 2001 and being captured by Northern Alliance forces. He denied any affiliation with the Taliban, however, including serving them as a watchman at any time. He asserted that his primary reason to travel to Afghanistan was to earn money by getting involved in the drug trade. He also testified that he obtained permission to travel from Iran to Afghanistan not via a passport, but by a letter issued by the HiG group. The Detainee explained that one of his Afghan friends helped him to obtain this letter. The letter was partially false in that, even though the Detainee's name and picture were accurate, the letter falsely claimed that his Afghan friend was his brother and that he (the Detainee) was going to visit him in Afghanistan.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was requested or deemed necessary. Additional comments on this issue are contained in Enclosure (2) to the CSRT Decision Report.

b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.

c. The Detainee is properly classified as an enemy combatant because he was part of, or supporting, the Hezb-e-Islami Gulbuddin (HiG) group, an associated force engaged in hostilities against the United States and its allies.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Marine Corps
Tribunal President

Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood and had no questions.

The Personal Representative presented the Detainee Election Form (Exhibit D-a) to the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal.

The Recorder presented Exhibit R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Tribunal President, referring to the Detainee Election Form, made the following statement:

Tribunal President: At this time I would like to make reference to the Detainee Election Form, which indicates that the Detainee has chosen to participate in this Tribunal, which is also evident because of his presence today. He would like to respond to each of the allegations on the Unclassified Summary. He is willing to take a non-Muslim oath. He would like to tell his story and then respond to questions. He has requested that no documentary evidence to be produced and he has requested no witnesses. Abdul Majid Muhammad, you may now present any evidence or information you have to this Tribunal and you have the assistance of your Personal Representative in doing so. Do you still wish to present information to this Tribunal?

Detainee: I wasn't a Taliban.

Tribunal President: Would you like to make your statement under oath as you indicated on the Detainee Election Form?

Detainee: Yes.

Tribunal President: Very well. Recorder, would you please administer a non-Muslim oath?

The Recorder administered a non-Muslim oath to the Detainee.

The Tribunal President opened the Tribunal to the Detainee to make his statement.

Tribunal President: With the assistance of your Personal Representative, as necessary, you may begin.

3.1. The Detainee traveled to Afghanistan after 11 September 2001.

Detainee: In 2001 I traveled from Iran to Afghanistan. After the month of Ramadan, because of my dreams to become rich fast, I went there to trade narcotics. I am a very poor, poor person. I only went there because of the money and to make some money not for fighting or anything else. I wanted to serve myself. That was the only time I traveled by myself. I swear to God that I have no animosity against Americans or anybody else, I have not seen Taliban and I have not worked for the Taliban. All my life I never fought with anybody and I never picked up a gun. I was also serving in the Iranian military and I fled from there, so they were after me too, the Iranian government, and I wanted to obtain some money so I could pay my debts and buy my way out. You can buy your way out if you have money.

3.2. The Detainee was identified as a "Watchman" for the Taliban.

Detainee: All my life I've never done such a thing for the Taliban. Because the Taliban did not like Iranians and there was sixteen Iranians in Afghanistan that was captured by Taliban and were killed by the Taliban. That is why they do not like us. Iran has Shiite Muslims, Catholic Muslims and also Sunni Muslims. If the Taliban had known that I was Catholic, they would have killed me because the time when I was in Afghanistan things were kind of quiet. There was no problem or anything in that nation. Because there was no war there, I went to Afghanistan. That's it.

3.3. As a "Watchman," the Detainee was on patrol for the Taliban.

Detainee: No.

3.4. The Detainee was captured by the Northern Alliance in the vicinity of Ghazni, Afghanistan.

Detainee: Yes. I was captured in that area, I don't know if the name is Ghazni or not but I was captured there. I had Afghan clothes on and I was really dirty, so I went by the river to clean myself up. I took a swim and I came out. I put my Iranian clothes on and I pulled a cigarette out of my cigarette pack and I started smoking a cigarette. While I was smoking I saw four or five vehicles coming towards me they were all armed and one of them came a put a gun to my neck and said Arabi, Arabi, Arabi. They said that because the color of my skin was darker, usually Arabs have darker skin. They started speaking to me in Pashtu and they were also speaking a little bit of Farsi, they asked me if I was Arab and I told them, no, I'm from Iran. They told me that they would take me to Kandahar. On the way they showed me to everybody and they would say "He is Arab" and them some people would say "No he's not Arab, he's Iranian." When they brought me to Kandahar, they blindfolded me and they tied my hands and feet. They didn't give me any water or food. After two days they took me to the Americans.

Tribunal President: We may have some questions for you but does this conclude your statement?

Detainee: No, I have more things to say. Since I've been here for four years, I should talk. Since I've been here, nobody likes me here; everybody is against me here. All the Arabs don't like me and all of the other detainees do not like me because I am a Catholic. They tried to kill me a couple of times. I have some scars on my hands. I have been nice ever since I've been here. I have not harmed anybody, none of the detainees, and I have not done anything against the guards or anything like that. Living conditions are very hard here for me. I have nowhere to turn; it is kind of hard because they pressure me a lot. I humbly ask you to help me. I did not kill anybody, I did not do anything wrong, I just need your help.

Tribunal President: We have come here with an open mind to make a determination of whether or not you have been properly classified as an enemy combatant. Using your statement and all of the evidence, only then after we have reviewed everything will we make our determination, and we will make it in a just and fair manner. If we determine that you should not be classified as an enemy combatant, you will be released to your home country as soon as arrangements can be made, or to another country yet to be determined. If we do confirm your status as an enemy combatant I will explain what would follow after that. Basically you would be eligible for an Administrative Review Board here. So we can learn more about you and your situation, we do have some questions for you.

Detainee: Today.

Tribunal President: Yes. If we may we will start with the Personal Representative. Do you have any questions for the Detainee?

Personal Representative: No, sir.

Tribunal President: Recorder, do you have any questions for the Detainee?

Recorder: No, sir.

Tribunal President: I think the Tribunal Members do have some questions, though.

Tribunal Member's questions

Q. Good afternoon. Thank you for coming to speak with us today. If your plan to travel to Afghanistan from Iran had gone exactly how you wanted it, what should have happened?

A. I haven't thought about it.

- Q. Did you have a goal? You were going to go to Afghanistan for a period of time and then go back to Iran? What was your plan?
- A. I only went there to work and to make some money. I was trying to go back to Iran because I have a family, a wife and kids back home in Iran.
- Q. Did you have a job before you left Iran?
- A. Yes, I was a well digger. It was very hard, tough job. A couple of times I went under the water and got scared so I thought about starting some other kind of work.
- Q. Were you hired by a local government to dig wells? Is that how you got the job?
- A. No, I did it on my own. I did it to put food on the table because I had four or five people to feed.
- Q. There was somebody who would pay you for that?
- A. Yes. Not a lot, just a little. Just enough to eat and survive for a while.
- Q. How long did you work as a well digger?
- A. For about seven or eight years.
- Q. Did you do anything else to support yourself? Do you have any other skills?
- A. Before that I used to work in somebody's house as a server. He was a drug dealer.
- Q. Is that how you first got involved in the drug situation?
- A. It started when I was working for a bad guy and I took a vacation from home and my mother passed away. When my mom passed away they took me to a psychiatric hospital because I was abnormal. When I got out of the hospital I found a friend and he told me that he was working in narcotics trading and stuff like that. He told me that he would work with me, since it was the first time that I found a friend, at the age of eighteen.
- Q. How old are you now?
- A. Twenty-eight.
- Q. You were doing that for also seven to eight years?
- A. Yes.
- Q. Was it just buying and selling or did you have a problem with using it also?

A. I was selling and sometimes I was using it myself. They just gave me small amounts so I could distribute. Like in the parks or by the theatres. Because of this I was arrested two times.

Q. Did you get to go to jail for that?

A. Yes, in Iran.

Q. What kind of drugs were these?

A. Opium and...

Translator: There are two other ones. I don't have the proper English names for them. It was Hashish and Opium and there was one more.

Q. Does he know the English word for it, maybe?

A. Opium and Hashish.

Translator: And what else?

A. Opium and Hashish.

Q. That's all?

A. That's all.

Q. Before coming here did you consider yourself addicted to using drugs, as in you couldn't stop, or wasn't it that bad?

A. A little bit. My plan was to get rich and then I would put it behind me and leave it aside. I would not touch it anymore. I didn't want anything else, just money. I just wanted to make a good life for myself.

Q. Before going to Afghanistan when you did, had you ever been there before?

A. No.

Q. Did someone help you to figure out how to get there without getting caught by the border guards and things like that?

A. Before that, yes, I used to have some Afghan friends and they were Afghans in Iran and they told me about Afghanistan. They told me that I could go to Afghanistan and work there and make money and all these things. I was a simple person; I fell for their stories and I went there.

Q. Is Ghazni a place near the border or kind of far away from there?

A. It is close to Baluchistan.

Q. You went from your home city or village in Iran to Ghazni, Afghanistan? That was your travel?

A. I was passing through Ghazni from Herat, which is a city in Afghanistan. I was traveling and I wasn't staying in one place for a long time.

Q. You said earlier that you were traveling by yourself?

A. Yes.

Q. How long were you in Afghanistan before you got captured?

A. Fifteen days. One five.

Q. One five? Fifteen days? During the time you were there, did you meet people and start your drug business or did you plan to buy and sell drugs?

A. No, I did not see anyone.

Q. What did you do for fifteen days?

A. I was with the driver, he was waiting for his car and I was with him. I was just waiting for work.

Q. During that whole time you never saw any Taliban people? They never came to confront you or ask you who you were and where were you going and things like that?

A. No I did not come across any Talibs. I didn't know anything about the Talibs until I came here. So I learned here more about Talibs and Osama Bin Laden. Prior to that I did not have too much knowledge about them. I didn't know what Talibs looked like, what kind of people they were or who Osama Bin Laden was.

Q. Did you know there was a war going on in Afghanistan when you were traveling there?

A. I knew, but from what I heard from the Afghans they told me that the fighting had stopped and that there was not too much fighting going on. That is why I started my travel.

Q. For the two weeks that you were there, did you have money to support yourself? How did you eat, how did you find lodging?

A. I had a little money. I was just buying bread. Only bread and nothing else and I was sleeping in the car.

Q. This was money you brought with you from Iran?

A. Yes.

Q. Did you travel with a passport when you were in Afghanistan?

A. No I only had a letter from the HiG group, which is Hezb-e-Islami Gulbuddin.

Q. What did that letter say?

A. That was just to pass through the border. That was to show the guards on the border so they would let me go through the border.

Q. From Iran to Afghanistan?

A. Yes.

Q. How does one get a HiG card to do that?

A. I did not obtain it myself; an Afghan person did it for me. I just went to their office and gave them my picture with five thousand in Iranian money, which is not too much in dollars, I don't know exactly, and they will give it to you. He told them he was getting it for himself, the Afghani person, and all you have to tell them is that you're Afghani, living in this place and basically give them the money and they will give it to you.

Q. Did the letter have your real name or real picture on it or not?

A. Yes, it was my real name on the letter.

Q. But not the picture?

A. Yes, my picture. He told them that he was my brother.

Q. So, the name and the picture were correct but your reason for going there was not correct? Am I right?

A. Yes, I was going in the wrong direction.

Q. Was the letter supposed to be for going out of Afghanistan?

A. That was just to get into Afghanistan. From Iran to Afghanistan.

Q. Did it say how long you would be allowed to stay?

A. No it does not have an indication or anything saying that you are an Afghan and that you are going to Afghanistan. Afghanistan is not like other countries where they ask you questions. Where are you going, why are you going?

Q. Did you have to use the letter at the border to get by the guards or you didn't even really need it?

A. No I just gave the guard a little money and he let me pass. A little bribery.

Q. You were in Afghanistan for two weeks. You're going from Herat to Kabul and you're with a driver and you're eating bread and your sleeping in your car. What else are you doing during this time?

A. Yes, because I didn't have too much money and I couldn't stay in a guesthouse or eat good food. That would have cost me more money and I didn't have the money, so I was trying to do whatever I could to survive.

Q. You said you went in the month after Ramadan?

A. Yes, it was after Ramadan.

Q. That means it was pretty cold. Correct?

A. Yes. There was still snow on the ground. I had warm clothes with me. A jacket and everything.

Q. It was okay to sleep in the car like that?

A. It wasn't comfortable but I had to do it. I had no choice.

Q. You said earlier that you did not serve as a "Watchman" for the Taliban. Do you know what a "Watchman" is?

A. Yes, somebody who watches and somebody who guards maybe watch over something. Since I had served the military of Iran for ten months prior.

Q. In the time you left Iran to go to Afghanistan, were you still in your period of service to the Iranian military?

A. After my mom passed away I ran away from the service. I did not serve anymore after that. The Iranian government is still after me.

Q. Because of that?

A. I don't have an older brother and anyone else in my family.

Q. How much longer were you supposed to have served with the Iranian military?

A. Eighteen months.

Q. Eighteen and you served ten out of eighteen or you have eighteen more to go?

A. Yes that's true. I served for ten months and I only had eight more months. Since my mother passed away I couldn't do it anymore. If that situation didn't happen then maybe I would have finished my term.

Q. You were serving in the Iranian military when your mother passed away?

A. Yes.

Q. How long after she passed away did you run away from the military?

A. I served for ten months and when my mother passed away then I didn't go anymore.

Q. How much time was there in between the time you ran away from the military and the time you went to Afghanistan?

A. About three or four years.

Q. So they didn't come and get you during that whole time?

A. Yes they sent me a couple of letters to my home address and whenever I saw a police car or something I used to hide myself around. They were sending me letters all the time from the court.

Q. What kind of military training have you had?

A. Simple stuff. How to use a weapon, how to march and also some security work and stuff like that.

Q. What kind of weapons did they teach you to use?

A. AK-47.

Q. Did you ever have to fight in combat?

A. No. I don't like it. I wasn't a good soldier. I was always getting punished for not being a good soldier. They were punishing me because I didn't like it, that's why I'm not good at it. I was working in (inaudible). In the island of Abulzad (ph), Iran.

Q. Is that in the Persian Gulf somewhere?

A. No, it was a very peaceful and quiet place there. There was no fighting or anything going on there. We were just working and getting (inaudible). The only reason I joined the service was because I like the military clothing and I went for the clothing.

Q. Did you get promoted in rank?

A. No, I was just zero.

Q. So, you were in Afghanistan and you said you were washing your clothes in a river the day you were captured? Is that right?

A. Yes.

Q. In the snow? In the freezing cold?

A. Yes. I guess if you have to when you're stinking pretty bad, then you have no other choice and you have to do it.

Q. That was when the soldiers came up to you. Was that the first time you had seen soldiers while you were in Afghanistan?

A. I was out of the water.

Q. I know. When they were coming towards you and you saw soldiers with weapons, was that the first time since you had been in Afghanistan that you had seen soldiers?

A. Yes, it was my first time. I didn't know who they were, who they belonged to or what they wanted to do with me. I wasn't bothering anybody; they just came and arrested me.

Q. Do you speak any other language besides Farsi?

A. Just Farsi.

Q. And English too.

A. Yes a little bit.

Q. Which language did the soldiers speak to in?

A. A little bit of Farsi and a little bit of Pashtu.

Q. When you talked back to them in Farsi, they must have realized you were not an Arab.

A. (Inaudible) all they cared about was the money they were getting for selling me. For five dollars.

Q. For five dollars?

A. Yes.

Q. Did they try to make you pay them money also?

A. No.

Q. How did they treat you during the time they had you?

A. They tied my hands behind me. They picked me up and they threw me in the car. They weren't treating me good. They didn't give me food and they didn't give water. They beat me a lot. They hit me with a weapon on my lip.

Q. You're pointing to a scar on your lip? Is that what you're trying to show us?

A. My hands were tied. When they hit me I had a cut on my lip.

Q. Why did they hit you?

A. I asked for food and they told me there was no food for me.

Q. Did they ever try to get you to perform duties for them, to be a soldier for them?

A. No.

Q. Did they ask you to be a guard?

A. They didn't ask me any other questions. Nothing else.

Q. They didn't want you to stand watch over their camp or anything like that?

A. No, my hands were tied and I was blindfolded.

Q. How long was that for? Was that on the way to Kandahar?

A. Four or five days.

Q. That's when you went to the Americans?

A. Yes. When I got to Kandahar then I got things because Americans treated me better. All the time that I've been here nobody has done anything bad to me here. I'm good with everybody. I treat everybody like family. Only the detainees treat me bad.

Q. Even here in this camp?

A. Yes in camp [REDACTED] and in camp [REDACTED] they tried to kill me.

Tribunal Member: Let the record show the Detainee is showing scars on his chest.

Q. How did you get those scars?

A. Four or five people jumped me at night at camp [REDACTED] They were wearing white clothes.

Q. They were detainees?

A. Yes. In camp [REDACTED] they are free to walk around. They got me in here so nobody will bother me too much because before they use to bother me a lot. They used to spit at me, throw urine at me and say bad things to me and that's why they brought me here.

Q. Are there any other Catholic detainees that you know or you the only one that you know of?

A. I'm the only one. They don't like it because I shave my beard and when I pray I do it kneeling down.

Q. Has anyone ever talked to you about being with the Taliban or working with the Taliban before?

A. No, nobody.

Q. During all the time you were interrogated no one accused you or asked you about being with the Taliban?

A. Yes, they did ask me a couple of times but since I wasn't a Taliban and didn't know anything or anybody (inaudible). I don't know anybody and nobody knows me.

Q. Have you been visited by the Iranian delegation since you've been here?

A. No.

Q. If you were to be released where would you want to go and what would you want to do?

A. Anywhere as long as I can be free, I just don't want to be in jail because I'm very tired.

Q. How long have you been Catholic?

A. All my life.

Q. Your family is Catholic also?

A. My mother.

Q. Do you remember when you received First Communion and Confirmation?

A. I go to the church.

Q. You get all the sacraments at the church?

A. I didn't go a lot maybe once or twice a month something like that.

Q. Do you have a Godfather?

A. Yes.

Q. What is your Confirmation name?

A. I do not understand that question. I am Catholic.

Q. You have a Godfather?

A. Godfather. (Inaudible)

Q. No Godfather, someone who stands, a regular human being that stands with you, to help you, protect you?

A. In Farsi they call it Kashish. In English I guess they would call it a minister.

Q. What was the name of the Catholic Priest in your church?

A. His name was Issa.

Q. The time that you spent here, three plus years, you have been through a lot of interrogations, you have said many things, you've been asked a lot of questions. Is there anything that you have said in those past interrogations that you would like to change or to clarify?

A. No I don't have anything to change. I don't want to change anything.

Q. Okay, so whatever we read pretty much in the classified portion will be pretty much the way it is then?

A. Yes.

Tribunal President's questions

Q. Through your travels in Afghanistan did you have any encounters with the Taliban?

A. No.

Q. Had you heard of the al Qaida organization?

A. Not in Afghanistan but after I was captured and brought here to Cuba then I found out about it and knew what it was.

Q. What is your attitude toward the United States?

A. America has no problem with me and I don't have any problem with them.

Q. Is there anything else that you feel is important that you would like to bring to our attention today?

A. No, I don't have anything.

The Tribunal President confirmed with the Personal Representative that he had no further evidence and that the Detainee had no previously approved witnesses to present to the Tribunal.

The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, U.S. Marine Corps
Tribunal President

DETAINEE ELECTION FORM

Date: 7 DEC 04

Start Time: 1550

End Time: 1650

ISN#: 555

Personal Representative:  C, US ARMY

Translator Required? YES Language? FARSI

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal**
- Affirmatively Declines to Participate in Tribunal**
- Uncooperative or Unresponsive**

Personal Representative Comments:

Detainee will attend. He will take a non-Muslim oath. He will respond to each allegation as read to him by the PR. He will also tell his story and respond to questions. He has not witnesses. He does speak some English.



Personal Representative: 

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (3 December 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – MUHAMMED, Abdul Majid

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is a member of the Taliban.
 - a. The detainee is a member of the Taliban.
 1. The detainee traveled to Afghanistan after 11 September 2001.
 2. The detainee was identified as a "Watchman" for the Taliban.
 3. As a "Watchman," the detainee was on patrol for the Taliban.
 4. The detainee was captured by the Northern Alliance in the vicinity of Ghazni, Afghanistan.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

2831

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Exhibit

R1

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Memorandum



To : Department of Defense Date 12/03/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Charles Jamison, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 555 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 05/09/02
FD-302 dated 05/19/02
FD-302 dated 06/06/02
FD-302 dated 07/04/02
FD-302 dated 07/07/02
FD-302 dated 10/10/02
FD-302 dated 10/25/02

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

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Exhibit

2832 pg 1 of 2

R2

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Memorandum from [REDACTED] to Capt. Charles Jamison
Re: REQUEST FOR REDACTION, 12/03/2004

If you need additional assistance, please contact Asst. Gen.
Counsel [REDACTED]

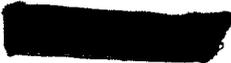
[REDACTED] or IS [REDACTED]

Personal Representative Review of the Record of Proceedings

I acknowledge that on 13 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #555.

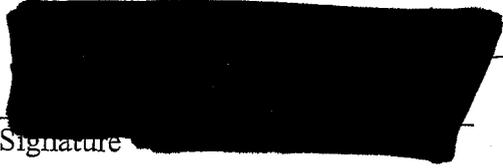
I have no comments.

My comments are attached.

LTC  USA

Name

13 Dec 04
Date


Signature

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

(FNU), ABDULLA,)

Petitioner,)

v.)

GEORGE W. BUSH, *et al.*,)

Respondents.)

Civil Action No. 05-1001 (ESH)

DECLARATION OF DAVID N. COOPER

Pursuant to 28 U.S.C. § 1746, I, Lieutenant Colonel David N. Cooper, Judge Advocate General's Corps, United States Air Force Reserve, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner (FNU), Abdulla that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 16 August 2006



David N. Cooper
Lt Col, JAG Corps, USAFR



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 1090
24 MAR 2005

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From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 556**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #556 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.


J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John B. Wiegmann)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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2836

#556



Department of Defense
Director, Combatant Status Review Tribunals

18 Mar 05

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #34

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

[REDACTED], Lieutenant Colonel, U.S. Air Force;
Member (JAG)

[REDACTED], Lieutenant Colonel, U.S. Air Force; Member
(JAG)

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy

22 Mar 05

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 556Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #34 of 18 March 2005
(2) Appointing Order for Tribunal #30 of 7 January 2005
(3) Appointing Order for Tribunal #26 of 9 December 2004
(4) Record of Third Tribunal Proceedings
(5) Record of Second Tribunal Proceedings
(6) Record of Original Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

a. The detainee was properly notified of the tribunal process and elected to participate. See exhibit D-a.¹

b. The three tribunals that considered the detainee's case were properly convened and constituted by enclosures (1), (2), and (3).

c. The tribunals substantially complied with provisions of references (a) and (b). Note that some information in exhibit R-5 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.

d. The detainee requested two witnesses. The original tribunal president determined that both witnesses were relevant and forwarded a request through the U.S. State Department to establish contact with the witnesses.² According to the original tribunal decision report, the State Department did not receive a response from the Government of Pakistan and the tribunal president therefore declared the witnesses to be not reasonably available. Given the State Department's apparent inability to elicit a response from Pakistan, the

¹ Enclosure (6), the original record of proceedings, includes only those exhibits seen by the original tribunal, exhibits R-1 through R-16 and exhibit D-a. Enclosure (5) includes the additional exhibits that were added for the consideration of the second tribunal and enclosure (4) includes the additional exhibits added for the third tribunal.

² References in paragraph 4 of enclosure (1) of the Original Tribunal Decision Report to the "CSRT Legal Advisor" should more accurately read, "CSRT Assistant Legal Advisor."

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR DETAINEE ISN #556

president had no alternative but to determine that the witnesses were not reasonably available.

e. On 15 December 2004, the original tribunal unanimously determined that the detainee should no longer be designated as an enemy combatant. Following that tribunal, CSRT personnel conducted another search of the Government Information to ensure that all relevant evidence had been provided to the tribunal. They collected additional evidence that eventually became exhibits R-17 through R-22 (attached to enclosure (5)). Due to the removal of one of the three members of the original tribunal panel, the additional evidence, along with the original evidence and original Tribunal Decision Report, was presented to tribunal panel #30 to reconsider the detainee's status. On 21 January 2005 that tribunal also unanimously determined that the detainee should no longer be classified as an enemy combatant. Once again, additional information regarding the detainee was sought, found, and presented to yet a third tribunal. This additional additional information became exhibits R-23 through R-30. This time, the three members of the second tribunal were no longer available, but the one original tribunal member who was not available for the second tribunal was now available for the third. That member, along with two new members, comprised tribunal panel #34 and sat for the detainee's third tribunal. Following their consideration of the new additional information along with the information considered by the first two tribunals, this Tribunal determined that the detainee was properly classified as an enemy combatant.

f. Tribunal panel #34's decision that detainee #556 is properly classified as an enemy combatant was unanimous.

g. The personal representative for the original and second tribunals was the same. Due to the departure of the original personal representative from OARDEC, another individual acted as personal representative at the third tribunal. Each personal representative was given the opportunity to review their respective record of proceedings and each declined to submit post-tribunal comments to the tribunal.

2. The proceedings and decision of the tribunal meet the absolute minimum requirements for legal sufficiency and no corrective action is required as a matter of law.

3. Ultimately, we must determine whether this detainee has had a fair and meaningful opportunity to contest his status as an enemy combatant before an independent tribunal; and whether the Government possesses sufficient evidence to properly classify him as an enemy combatant. With regard to the first question, the detainee actively participated in the tribunal, including making an extended statement.³ All three tribunals considered the detainee's statement. With regard to the second question, notwithstanding the convoluted path the case

³ Although the detainee did not take the Muslim oath described in enclosure (8) to reference (b), he swore to tell the truth. The original tribunal accepted his statement as a sworn statement (notwithstanding the fact that the tribunal labeled the statement, "Summarized Unsworn Detainee Statement"). See enclosure (3) of Original Tribunal Decision Report.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN #556

took, it is clear after reviewing all the evidence that more than sufficient evidence exists to determine that the detainee is properly classified as an enemy combatant. Neither reference (a) nor (b), nor paragraph 1-6 of Army Regulation 190-8, requires a greater quantum of evidence than has been presented in this case in order to establish that an individual detained during a period of armed conflict is an unlawful enemy combatant. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

7 Jan 05

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #30

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Marine Corps Reserve; President

[REDACTED] Commander, U.S. Navy; Member (JAG)

[REDACTED] Major, U.S. Air Force; Member

A handwritten signature in cursive script, reading "J. M. McGARRAH".

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy

2841

Encl. (2)



Department of Defense
Director, Combatant Status Review Tribunals

9 Dec 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #26

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

[REDACTED], Commander, U.S. Navy; Member (JAG)

[REDACTED], Major, U.S. Air Force; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy

2842

Encl. (3)

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #26

(U) ISN#: 556

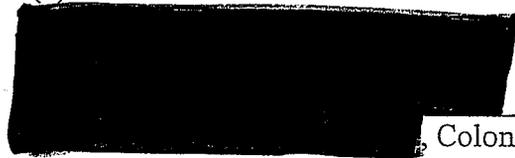
Ref: (a) (U) Convening Order for Tribunal #26 of 9 December 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 15 December 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee #556 shall no longer be classified as an enemy combatant as defined in reference (c).

3. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Tribunal President

Colonel, USAF

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION**(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL: _____ #26
ISN #: _____ 556**1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee shall no longer be classified as an enemy combatant as defined in the DEPSECDEF Memo of 7 July 2004. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The Tribunal hearing was conducted on 15 December 2004. The Recorder presented Exhibits R-1 through R-3 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), indicates that the detainee is associated with the Taliban and al Qaida; when arrested by Pakistani authorities, the detainee had a falsified Turkish passport that he had purchased from a Turk; the detainee attended a "physical fitness" camp in Jalalabad, Afghanistan for six months; the detainee was at the Khana Gulam Bacha guesthouse on the Taliban front lines in Kabul Afghanistan in late 1999 and early 2000; the detainee stated he had a Jamiat Al Islamiya identification card; Jamiat Al Islamiya is designated as a non-governmental organization that supports terrorist activities; and the detainee was arrested in Islamabad, Pakistan by Pakistani authorities while living in a house used by Arabs, and was later turned over to U.S. custody. The Recorder called no witnesses.

The detainee participated actively in the Tribunal process. After the detainee was sworn, he provided an extensive explanation for each of the allegations on the Unclassified Summary of Evidence. Afterwards, he answered questions posed by the Tribunal members. The detainee's testimony, including his responses to the questions posed to him, is summarized in Enclosure (3) to the CSRT Decision Report. The detainee requested two witnesses, however the Tribunal President ruled that the witnesses were not reasonably available. See paragraph 4, below. The detainee submitted no evidence.

During the classified session of the Tribunal, the Recorder presented Exhibits R-4 through R-16, identifying those exhibits that directly addressed the allegations in the Unclassified Summary of Evidence and those that provided amplifying information. The Personal Representative introduced no classified documents, but did comment on aspects of the classified evidence that, in his view, tended to be exculpatory.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-16.
- b. Testimony of the following persons: None.
- c. Sworn statement of the detainee: See Enclosure (3) to the CSRT Decision Report.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Abdul Aziz Nooristani	Not reasonably available	no*
Husseinjon	Not reasonably available	no*

* The Tribunal President explained to the detainee, on the record, that he ruled that these witnesses' testimony could be relevant, and asked that the U.S. Government attempt to produce them. The CSRT legal advisor then used standard CSRT procedures to request the U.S. Department of State attempt to contact these individuals through the Pakistan Government. The Department of State subsequently informed the CSRT legal advisor that on or about 26 November 2004, the Pakistani Government was requested to locate these individuals. After a reasonable amount of time, the Pakistani Government did not respond to the request. Therefore, lacking the cooperation of the Pakistani Government, the Tribunal President found both of these witnesses not reasonably available.

The detainee requested no additional evidence be produced; no rulings were necessary.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 through R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1, the Unclassified Summary of Evidence, while helpful in that it provides a broad outline of what the Tribunal can expect to see, is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 contained no useful information. Exhibit R-3, the U.S. Department of Homeland Security's Terrorist Organization Reference Guide, identified a number of organizations as terrorist organizations, but did not directly relate to the detainee or any other information provided during the unclassified session. Accordingly, the Tribunal had to look to classified exhibits for support for the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is

attached as CSRT Decision Report Enclosure (3). In sum, the detainee acknowledged that he had purchased a forged passport and identification card, but asserted that he did so with the intention of migrating to Turkey, where he believed he'd find better economic prospects. He did dispute the name of the organization on the forged I.D. card, stating that it was not the same name as that indicated in the Unclassified Summary of Evidence. He also noted that the timeframe in which he went to a gym in Peshawar, Pakistan, was some five years ago. The detainee denied any involvement with al Qaida or the Taliban.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report

6. Consultations with the CSRT Legal Advisor

The Tribunal President consulted with the CSRT Assistant Legal Advisor concerning the witness requests discussed above.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.

c. That this detainee shall no longer be classified as an enemy combatant as defined in the DEPSECDEF Memo of 7 July 2004.

8. Dissenting Tribunal Member's Report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, USAF

Tribunal President

1 Feb 05

MEMORANDUM

From: Assistant Legal Advisor
To: Director, Combatant Status Review Tribunal
Via: Legal Advisor

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 556

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal # 26 of 9 December 2004
(2) Appointing Order for Tribunal # 30 of 7 January 2005
(3) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal,¹ I find that:

- a. The detainee was properly notified of and actively participated in the Tribunal process. The detainee provided a sworn oral statement to Tribunal # 26.
- b. On 15 December 2004, Tribunal # 26 determined by a unanimous decision that the detainee should no longer be classified as an enemy combatant. Subsequently, the Recorder obtained additional information not previously available. This information is contained in exhibits R-17 through R-22.

Tribunal #30 was assigned to re-hear the case based on this new information. Prior to considering the new evidence, Tribunal # 30 reviewed and examined the proceedings of Tribunal #26. Tribunal # 30 accepted the conclusions of Tribunal # 26 as correct.
- c. Tribunal # 26 and Tribunal # 30 were properly convened and constituted by enclosures (1) and (2).
- d. The Tribunals substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-5 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.

¹ The decision and proceedings of Tribunal # 26 are also legally sufficient. However, since Tribunal # 30 reviewed the proceedings of Tribunal # 26 and had available additional information, its decision is the relevant one for purposes of legal review.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR DETAINEE ISN # 556

e. The detainee requested two witnesses, his local Imam and a friend from a refugee camp. The Record of Proceedings contains no proffer of expected testimony. However, the president of Tribunal # 26 determined that these witnesses were relevant. The Department of State contacted the Pakistan Government, but received no response. Under the circumstances, the Tribunal President determined that these witnesses were not reasonably available. In my opinion, this was not an abuse of discretion and no corrective action is required.

The detainee did not request that any other witnesses or evidence be produced.

f. Both Tribunal # 26 and Tribunal # 30 determined that detainee # 556 should no longer be classified as an enemy combatant. Both decisions were unanimous.

g. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit post-tribunal comments to the Tribunal.

2. The proceedings and decision of Tribunal #30 as reflected in enclosure (3) are legally sufficient and no corrective action is required. While in my opinion sufficient evidence exists to classify the detainee as an enemy combatant, reasonable Tribunal members could determine that the detainee should not be classified as an enemy combatant based on the evidence. I can find no reason to disturb this determination.

3. I recommend that the decision of Tribunal # 30 be approved and the record of proceedings be forwarded to the Secretary of the Navy in accordance with reference (b).



BREE A. ERMENTROUT
CDR, JAGC, USNR

Summarized Unsworn Detainee Statement

The Tribunal President read the Hearing Instructions to the Detainee; the Tribunal President then addressed the Detainee to answer questions and confirm he understood the process.

Tribunal President: Do you understand this process?

Detainee: I understand everything; it would be good for me if you would do it in a question and answer session type setting, and let me defend myself.

Tribunal President: We understand; later in this Tribunal we will have that opportunity. Do you have any questions concerning the Tribunal process?

Detainee: My only concern is when you are talking about the classified documents, because I don't understand what you could possibly have against me.

Tribunal President: It might be helpful if I give you a definition of a classified document.

Detainee: I understand the definition, but I'm just wondering if and how you're going to use those materials to place charges against me.

Tribunal President: The Unclassified Summary of Evidence you've been read is based on a number of things. Some of that information may be classified; and as you know, the classified definition means information we cannot release to you, because it may damage our country. If you remember the promise we took of what we would do here today; we have not seen any of your information. We promise to review everything that is given to us, and consider your classification as an enemy combatant. Recognize that this is not a criminal or court proceeding; this is an administrative review to determine if the government has properly classified you as an enemy combatant. The members here are not intelligence officers or security officers [the translator was having difficulty explaining this point, so the Tribunal President re-worded this statement]; we are not combat, fighters or intelligence officers, so we are independent in reviewing all this information to determine if the classification was done properly. I know you may be a little concerned about the classified information and what it contains. Your Personal Representative has access to the classified information.

Detainee: But he (Personal Representative) didn't see it yet?

Tribunal President: The Personal Representative has seen the classified information; later, in a closed session, we may be provided classified information. The Personal Representative's responsibility is to identify to the Tribunal any information in that classified information that would show that you have not been classified properly. I hope that explains the procedures, and why we are going through this process. I would like to proceed with more information, and at any time, if you have any other questions about what we're doing and why, you may ask.

The Tribunal President then requested the Detainee Election Form (Exhibit D-A). The Detainee inquired about the nature and contents of the form; the Personal Representative and the Tribunal President explained that the form indicated that the Detainee had requested to participate in the proceedings, and wished to make a statement. The Tribunal President confirmed the Detainee understood the nature and contents of the form.

The Recorder submitted Exhibits R-1 (Unclassified Summary of Evidence), and Exhibits R-2 through R-3 to the Tribunal. Copies had previously been provided to the Personal Representative.

The Recorder read in full the Unclassified Summary of Evidence to the Tribunal. The Tribunal President addressed the Detainee to explain that this evidence was identical to information he was provided previously by his Personal Representative, and that he understood why it was being presented at this time.

The Tribunal President then addressed the Detainee Election Form (Exhibit D-A), to explain in further detail its contents to the Detainee. The Tribunal President also confirmed the identity of the two Witnesses requested by the Detainee.

Tribunal President: As the Personal Representative has informed you, I determined these Witnesses would provide relevant testimony to this Tribunal. I directed the United States government contact these individuals through the Pakistan government. The Pakistan government was contacted on or about the 26th of November. As of today, the government of Pakistan has not responded to our request. This has been a reasonable amount of time for the government to respond. Without the cooperation of that government, the United States government is unable to contact the Witnesses to obtain testimony. I make the ruling, at this time, that I am forced to find these Witnesses are not reasonably available. That addresses your request for Witnesses, and I am sorry that we are not able to provide your Witnesses today.

The Tribunal President confirmed the Detainee still wished to make a statement, and could do so with the assistance of his Personal Representative; the Tribunal President then asked if the Detainee wished to be administered the Muslim oath.

Detainee: I am actually ready to give my statements either way.

Tribunal President: The oath is your choice; it is a promise to tell the truth. We do not require an oath; it is your choice.

Detainee: I'm going to tell the truth whether under oath, or not under oath. Still, it's up to you.

Tribunal President: It is your choice. From what I understand, you said you would tell the truth, and that is fine with us.

Detainee: I'm actually promising I'll be telling only the truth.

Tribunal President: That is fine with us; you may proceed. You are free to tell us anything about this information at all; we are not interrogators, so this is your first opportunity, maybe, to present information to the United States government.

The President determined that the Detainee had made a personal oath and considered his testimony would be considered sworn. With the assistance of the Personal Representative, the Detainee addressed the allegations.

3-1. When arrested by Pakistani authorities, the Detainee had a falsified Turkish passport that he had purchased from a Turk.

Detainee: First of all, the reason why I ended up having this passport, was because, as you know, there was a war in Afghanistan for the past 28 years. Afghani people didn't have many occupations, and even in Pakistan, could not find a decent job there. As you know, there's been war for so many years, and the people were never able to do something; they only knew how to fight. Even if they wanted a decent job, or join the government, it was impossible. That's the reason a lot of Afghans had to leave the country for Pakistan. In order to provide food for the family, as the head of the family, I had to find something to do. Of course, a decent person cannot commit crimes or steal, so everyone wants a decent job. There are too many refugees coming from Afghanistan, so Pakistan never supported them, and gave them a hard time; they were actually pushing people to bribe them. It's very hard to find a job over there, so if you find a decent job, at least for one day, you can get 80 rupees. Eighty rupees is not much money, just to support yourself, you still have to have a place to live, so it's pretty much nothing even for just one person. Eighty rupees, is about one and a half dollars, so it's nothing. It's not possible to support the whole family with that type of money. Since this money is not enough, we were living in something like a cave, or shelter, not even a house; we are very poor since we're not making enough money. You wonder how a human being can live this kind of lifestyle; it's very emotional [-ly difficult]. That's the reason most people look for something different, so they sometimes go and borrow money from somebody. That's the reason the people try to go somewhere, like Russia or Turkey, to make a better living and provide for their families. After the first time I was captured, I told them my story and they released me. After that, I went to Mousad, and he said he would help me out. He actually promised, after I told my story, to help me go to whatever foreign country I wanted to, and would provide everything I needed for that matter. He personally didn't know what I needed, so he brought somebody else to his house and found out how much money I needed to go to a foreign country. I heard there are people [who are] somehow able to go to foreign countries, and I needed to know what it took to coordinate all that. While I was in Afghanistan, I had never used or even held a passport. Mousad's friend told me he could make me a passport; he asked me which country I wanted to go. When I was a little boy, I went to Turkey, so I told him that's where I wanted to go. Back then, my father was living in Turkey and had several friends there. I stayed there for about two and a half years, and came back; the conditions weren't that good in Turkey. When I was in Turkey, my father wanted me to get an education, but it didn't happen that way, and I had to go back to Afghanistan; it didn't happen the way my father wanted. In Turkey, I was living at my father's friend's house. [My father's friend's name was Hiatollat, and his friend was Mohoud also. I stayed in their house for two and a half to three years. When Mousad's friend told me it would be hard to find a job if you don't know anyone; I told him that my father's friend Hiatollat and Mohoud were there, and

could help me to find a job. Since to go there you have to spend lots of money, you have to borrow money just to start some kind of job. If you're not able to get your business going, you have to come back even more in debt. I talked to him on the phone, and asked if he would be able to help me out; he said we'd be able to help you, so just come over. I got confirmation from my father's friend [that] he'd help me out, so I told Mousad's friend to prepare the papers to help me go there. The Uzbek and Turkish language are close to each other, so you can understand each other; if you have a passport you can go there, and you can understand [the language].

Tribunal President: I think we fully understand how you obtained the passport now; is there anything else you'd like to tell us on that point?

Detainee: I just want to add that while I was in the process of getting the passport, I was in their house, and the Pakistani authorities came there to arrest Masoud's friend at that moment. Since I was there, they just took me along with him.

Tribunal President: I understand.

Detainee: At that moment, I had that ID card of Jamiat Al Islamiya. It's not the name of the madrassas like it says here on the allegation; it's like an Islamic university ID card.

Tribunal President: OK.

Personal Representative: (addressing the Detainee) Do you want me to go to allegation # 4, about the Jamiat Al Islamiya identification card?

Detainee: No; I just want to let you know it's not just the first point I'm talking about. I just want to let you know they were [also] making a false ID for me for that university.

The Personal Representative then read allegation # 2, but was interrupted by the Detainee.

Detainee: Does that mean we're done with the first point?

Personal Representative: Unless there's something else you'd like to add?

Detainee: Again, I just wanted to let you know that at that point [when I was arrested], I had that ID card.

Tribunal President: Are you ready to move to the next point?

Detainee: Was I able to convince you with the first point? Is that enough?

Tribunal President: We may have some questions later, and we'd like to get through all your testimony first, so we can organize our questions. That's why we're taking notes, so please proceed with the second point.

3-2. *The Detainee attended a "physical fitness" camp in Jalalabad, Afghanistan for six months.*

Detainee: One interrogator asked me about being pretty physically fit, and they asked me if I ever did any sports activities. At that time, I told them that in Peshawar, Pakistan, they had a gym, and I went there for five or six months to keep myself in shape. My understanding is that this is just a mistranslation, and I don't know how they got Jalalabad from this. I didn't go to Jalalabad for this specific reason. The truth of this is that I was in Peshawar attending a gym for five or six months.

Personal Representative: And I have in my notes that this was about five years ago?

Detainee: Yes, that's about right, because I've been here about three years, and it was about two years before that.

3-3. *The Detainee was at the Khana Gulam Bacha guesthouse on the Taliban front lines in Kabul, Afghanistan in late 1999 and early 2000.*

Detainee: Like I have told you before, I have never heard of this place, I don't know of this place, and I was never associated with the Taliban. Like I told you before, this was never mentioned in any of my interrogations, so I don't know where this is coming from. I never stayed even one month in any kind of guesthouse; not even for a month when I was living in Kabul. Any person with responsibility for a family wouldn't just stay in a guesthouse for a month. From Peshawar, we were going through Jalalabad to Kabul; that was our route. At that time, when we got to Kabul, if you can find a car, you can continue by road to Maazar-e-Sharif, but we didn't, so we had to stay overnight somewhere. Even if you have transportation, no one travels at night because it's dangerous; everyone travels during the daytime. For that reason, people will just find some kind of guesthouse or someplace to eat and stop for the night. After spending the night, after morning prayers and breakfast, you try to continue traveling to Maazar-e-Sharif. You also don't just stay in any place, because it is dangerous; there's all kinds of people around when you're sleeping, and they might steal whatever belongings you have. You don't usually think about who this place might belong to, Taliban or anyone else, you just stay there overnight, take a rest, and continue your travels in the morning. There's so many nationalities in Afghanistan, so you just try to find a nice, decent place to stay overnight. If you stay at someplace, you don't know if it belongs to the Taliban or other different kinds of people. Again, that place I went I didn't know who it belonged to; it was close to the road, and we had to stay there overnight, and continue in the morning.

Tribunal President: I think that's very complete; thank you.

Detainee: Yes; that's it.

3-4. *The Detainee stated he had a Jamiat Al Islamiya identification card.*

Detainee: Before I had a passport, I had never had that ID or that kind of document. The person who made the ID said it would be hard to go around without any other documentation, and that the police would give me a hard time, stop me on the street, take everything you have, and won't

let you go. He told me that there was an Islamic university in Turkey with lots of students; if you have that ID and show it to the police, they will let you go and not give you a hard time. That was the reason I agreed to have that ID, so it would be easier for me to get around Turkey. If you want to find out if I'm speaking the truth, you can actually request this from that Islamic university, and you would find out my ID was false, and I never went there. If you show them a picture, they will tell you I am not a student over there; that's pretty much it.

3-5. Jamiat Al Islamiya is designated as a non-governmental organization that supports terrorist activities.

Detainee: The reason you put this item is just because you found the ID of that university, but since I never studied over there, I guess that proves this is not related to me.

Personal Representative: What was the name of the university?

Detainee: You can call it Islamiya Jamiat, but it's kind of connected to a big, huge [inaudible] in Islamabad, and it's the one I saw.

3-6. The Detainee was arrested in Islamabad, Pakistan by Pakistani authorities while living in a house used by Arabs, and was later turned over to U.S. custody.

Detainee: I just want to ask you how was I related to the owner of that house? The madrassas where I was studying had a huge library, and I used to go there. That library was open for the public, and everyone wanting to seek knowledge and read books; it had places to sit. At that time, I actually met Mousad, and you know when you are in a foreign place, you want to talk to somebody who speaks your language, and that's how we started to know each other. That person introduced himself to me as Turkish, because he lived a long time in Turkey. We used to talk a lot, and we connected, and we started a friendship. I told him that I am an Uzbek from Afghanistan, and we had conversation with a little Turkish and a little bit Uzbek. He told me how he came to Pakistan, and that he had a family here, and had relatives here. He went there because he had an injury on his leg. He told me he used to live in Afghanistan, and had a problem with his leg, and while he was in Turkey, he heard the only cure was in Pakistan, and the place they had the cure was in Peshawar. That's how we became friends; he told me his story and I told mine. He was always calling for me at the madrassas so we could talk. One time he actually invited me to his house; I went and was a guest at his house. We ate together and had a very good time. I had been to his house several times for conversation and food, and never saw anything suspicious; he had his family and a nurse and his own kids. He seemed like a very normal person. At some point he had to move from Islamabad; when he moved, I never visited him. One time he called from his house to the madrassas asking for me, and at that time, he gave me his telephone number. Previously in Peshawar I had been captured, but released after that. The Pakistani government actually captured me. At one point, I was at a friend's house, he was a Turk man in Pakistan; when I was in his house, they came to get him. There were three people in the house; me, a person named Imatubbha (ph), and a third person; I forgot his name. It was midnight when they came and captured us. When they captured us they put us in jail, and asked lots of questions and interrogated us. We gave them all the information they needed. The second person, I just remembered, was named Abdul Bakhid (ph). When they asked questions,

they were trying to find out if I was telling the truth; they went around comparing stories to see if I was lying. After they got all the information I knew, they compared it, and I'd been in jail 28 days; one of your representatives was there, and I spoke to him. He got some information from me, too. After they found out and were convinced I was telling the truth, they released me after that 28 days in jail. After that, I contacted Mousad, and told him what happened. He told me to come over, see the place he lives, and we would talk about these issues. I called him and told him I was coming, and I confirmed his address and everything. I took a bus to Islamabad, and he picked me up at the bus stop and took me to his home. At his house, I told him everything, and now we are coming back to the first item, about the passport. His friend explained to me what it takes and how much money for his service to get the passport. When he got all that, he went back to Peshawar to prepare all that. It was around the 10th day after Ramadan, and I went home to talk to my father about this and my family and friends [too]. After I got everything and all the money I needed for the passport, I went back to Islamabad to Mousad's house. Before I went to Islamabad to discuss this issue, I actually had to call to Turkey and ask to make sure my father's friend was able to help me first. After getting permission from my parents and confirming my father's friend would help me in Turkey, I went back to Islamabad. After everything was ready I went to Islamabad. I went to Mousad's house, and talked to his friend and gave him all the money he requested; he said it would take some time, so I stayed there about three days. At that point, when everything was ready on the third day, there were still papers I needed to leave Pakistan, a visa, to get permission to leave. I still didn't have that paper yet. We had almost everything ready, and it was at that time that the Pakistani government came in. Of course, when traveling, you have to have extra clothes, and when they came, I had suitcases with everything I needed, and they saw that. They took all of us to jail, and whatever I told you now, I told them, too. Mousad pretty much told them everything I told them. Before I was captured, I always thought the other guy was Turkish, so I told them this; they told me no, he's not Turkish, he's Arab. While I was in Mousad's house, I only knew the person doing my passport, and his name was Abdul Latif; I didn't see anybody else while I was living in his house. I just knew Mousad as a normal person, and I saw nothing suspicious except Latif visiting the house; he just lived with his family and was doing normal things. Obviously, I didn't even possibly think he was Arab; I though he was nothing else but Turkish. After the first time I was captured, I was interrogated; they compared all I said and then released me when they learned it was all true. They asked me a lot of questions, and they asked if I knew of conflicts in the mountains with Arabs; that was the first I heard of this. Thank God I was held in jail at that time; otherwise, I might have even more evidence here, too. I am an innocent person that's been held here 3 years in these conditions; I don't think any one of you could make it even a month here. I've been here three years, and I have lots of problems I've never had before, that happened here; I wonder if any one of you could make it even one or two days in my condition here. I believe that none of you could be away from your family that long, and there won't be a home to come back to.

Tribunal President: I'd like to get back to the hearing, and ask some questions if you're done with your statement.

Detainee: OK.

Tribunal Member Questions to Detainee

Q: You said that the name on the ID card was not yours; what was the name on the ID card?

A: Whatever the name I had on the passport, was the same as the name on the ID card; right now, I don't honestly remember that.

Q: Does the name Jamiat al-Ta'awun al-Islamiyya sound familiar?

A: The name was Islamiya Jamiat university.

Q: Have you ever heard of this other group?

A: I never heard of it.

Q: What was Mousad's full name?

A: I knew it was Mousad; I never heard any other name.

Q: He never told you any name other than Mousad?

A: I knew he had a little son, named Abu Hamsa (ph). He also had a daughter, but at this moment, I don't remember her name.

Q: Earlier you said you'd traveled from Peshawar through Jalalabad, through Kabul towards Maazar-E-Sharif; I understand that must be a long journey, and you would have to stay at a guesthouse. I would like to know why you were traveling to Maazar-E-Sharif; was that where your family's from, friends, or a part of work? I would like to know more.

A: My previous place to live was Baglon; it was actually close to Maazar-E-Sharif. There is another place named Samangon (ph), and you must go through that province. After that, there is Maazar-E-Sharif; after that, there is Shebergen, and after that there is the place my family was.

Q: So you used to live there?

A: Actually the place I used to live was Totukolat (ph). I used to live there and travel there, and that was the place I grew up.

Q: When was the last time you were there?

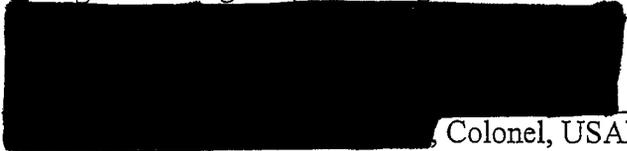
A: After I had been released after my first capture, I actually went there to discuss that issue with my parents and friends over there. I went back to my parent's house, and I got their approval, and collected about \$300 from them; I then went back to Peshawar to see Abdul Bakhid for \$700. After I had \$1000, so I went back to Islamabad.

The Tribunal President confirmed no other Tribunal Members had additional questions or information to present. The Tribunal President thanked the Detainee for his testimony and participation.

The Tribunal President explained the remainder of the Tribunal process, and adjourned the open session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, USAF

Tribunal President

DETAINEE ELECTION FORM

Date: 18 Nov 04

Start Time: 1300

End Time: 1545

ISN#: 556

Personal Representative: , LT COL

Translator Required? YES Language? UZBEK

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal**
- Affirmatively Declines to Participate in Tribunal**
- Uncooperative or Unresponsive**

Personal Representative Comments:

- Will speak to each piece of evidence.
 - Requests PR read each piece of evidence one at a time so detainee can respond to each.
 - Detainee requested 2 out-of-camp witnesses.
 -- First witness is detainee's Imam at the local mosque.
 -- Second witness is detainee's friend from a refugee camp.
 - Detainee did not request any documentary evidence.

Personal Representative: 

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (5 November 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – KHAN, Abdullah Mohammad

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with the Taliban and al Qaida.

The detainee is associated with the Taliban and al Qaida:

1. When arrested by Pakistani authorities, the detainee had a falsified Turkish passport that he had purchased from a Turk.
 2. The detainee attended a "physical fitness" camp in Jalalabad, Afghanistan for six months.
 3. The detainee was at the Khana Gulam Bacha guesthouse on the Taliban front lines in Kabul Afghanistan in late 1999 and early 2000.
 4. The detainee stated he had a Jamiat Al Islamiya identification card.
 5. Jamiat Al Islamiya is designated as a non-governmental organization that supports terrorist activities.
 6. The detainee was arrested in Islamabad, Pakistan by Pakistani authorities while living in a house used by Arabs, and was later turned over to U.S. custody.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

2859

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Exhibit

R-1

1. ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

Memorandum



To : Department of Defense Date 11/05/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Charles Jamison, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 556 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 06/17/02

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

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Memorandum from [REDACTED] to Capt. Charles Jamison
Re: REQUEST FOR REDACTION, 11/05/2004

If you need additional assistance, please contact Asst.
Gen. Counsel [REDACTED] or Intelligence Analyst (IA)

IA

-2/2
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U.S. Department of Homeland Security
U.S. Customs and Border Protection
Office of Border Patrol

Terrorist Organization Reference Guide

January 2004

Exh 2862

R-3

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1/6

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Terrorist Exclusion List³

Section 411 of the USA PATRIOT ACT of 2001 (8 U.S.C. § 1182) authorized the Secretary of State, in consultation with or upon the request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the "Terrorist Exclusion List (TEL)" authority. A TEL designation bolsters homeland security efforts by facilitating the USG's ability to exclude aliens associated with entities on the TEL from entering the United States.

Designation Criteria

An organization can be placed on the TEL if the Secretary of State finds that the organization:

- commits or incites to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;
- prepares or plans a terrorist activity;
- gathers information on potential targets for terrorist activity; or
- provides material support to further terrorist activity.

Under the statute, "terrorist activity" means any activity that is unlawful under U.S. law or the laws of the place where it was committed and involves: hijacking or sabotage of an aircraft, vessel, vehicle or other conveyance; hostage taking; a violent attack on an internationally protected person; assassination; or the use of any biological agent, chemical agent, nuclear weapon or device, or explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property. The definition also captures any threat, attempt, or conspiracy to do any of these activities.

Designation Process

The Secretary of State is authorized to designate groups as TEL organizations in consultation with, or upon the request of the Attorney General. Once an organization of concern is identified, or a request is received from the Attorney General to designate a particular organization, the State Department works closely with the Department of Justice and the intelligence community to prepare a detailed "administrative record," which is a compilation of information, typically including both classified and open sources information, demonstrating that the statutory criteria for designation have been satisfied. Once completed, the administrative record is sent to the Secretary of State who decides whether to designate the organization. Notices of designations are published in the Federal Register.

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7/10

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Effects of Designation

Legal Ramifications

Individual aliens providing support to or associated with TEL-designated organizations may be found "inadmissible" to the U.S., i.e., such aliens may be prevented from entering the U.S. or, if already in U.S. territory, may in certain circumstances be deported. Examples of activity that may render an alien inadmissible as a result of an organization's TEL designation include:

- membership in a TEL-designated organization;
- use of the alien's position of prominence within any country to persuade others to support an organization on the TEL list;
- solicitation of funds or other things of value for an organization on the TEL list;
- solicitation of any individual for membership in an organization on the TEL list; and
- commission of an act that the alien knows, or reasonably should have known, affords material support, including a safe house, transportation,
- communications, funds, transfer of funds or other material for financial benefit, false documentation or identification, weapons (including chemical,
- biological, or radiological weapons), explosives, or training to an organization on the TEL list.

(It should be noted that individual aliens may also found inadmissible on the basis of other types of terrorist activity unrelated to TEL-designated organizations; see 8 U.S.C. §1182(a)(3)(B).)

Other Effects

1. Deters donation or contributions to named organizations.
2. Heightens public awareness and knowledge of terrorist organizations.
3. Alerts other governments to U.S. concerns about organizations engaged in terrorist activities.
4. Stigmatizes and isolates designated terrorist organizations.

Background

On December 5th, 2001 Secretary of State Colin Powell, in consultation with the Attorney General designated the following organizations, thereby placing them on the Terrorist Exclusion List:

Terrorist Exclusion List Designees

- Al-Ittihad al-Islami (AIAI)
- Al-Wafa al-Igatha al-Islamia

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- Asbat al-Ansar
- Darkazanli Company
- Salafist Group for Call and Combat (GSPC)
- Islamic Army of Aden
- Libyan Islamic Fighting Group
- Makhtab al-Khidmat
- Al-Hamati Sweets Bakeries
- Al-Nur Honey Center
- Al-Rashid Trust
- Al-Shifa Honey Press for Industry and Commerce
- Jaysh-e-Mohammed
- **Jamiat al-Ta'awun al-Islamiyya**
- Alex Boncayao Brigade (ABB)
- Army for the Liberation of Rwanda (ALIR) -- AKA: Interahamwe, Former Armed Forces (EX-FAR)
- First of October Antifascist Resistance Group (GRAPO) -- AKA: Grupo de Resistencia Anti-Fascista Premero De Octubre
- Lashkar-e-Tayyiba (LT) -- AKA: Army of the Righteous
- Continuity Irish Republican Army (CIRA) -- AKA: Continuity Army Council
- Orange Volunteers (OV)
- Red Hand Defenders (RHD)
- New People's Army (NPA)
- People Against Gangsterism and Drugs (PAGAD)
- Revolutionary United Front (RUF)

- Al-Ma'unah
- Jayshullah
- Black Star
- Anarchist Faction for Overthrow
- Red Brigades-Combatant Communist Party (BR-PCC)
- Revolutionary Proletarian Nucleus
- Turkish Hizballah
- Jerusalem Warriors
- Islamic Renewal and Reform Organization
- The Pentagon Gang
- Japanese Red Army (JRA)
- Jamiat ul-Mujahideen (JUM)
- Harakat ul Jihad i Islami (HUJI)
- The Allied Democratic Forces (ADF)
- The Lord's Resistance Army (LRA)

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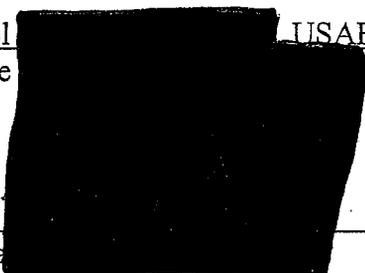
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Personal Representative Review of the Record of Proceedings

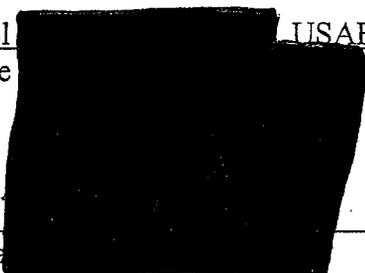
I acknowledge that on 24 January 2005 I was provided the opportunity to review the Reconsideration of Tribunal Findings record of proceedings for the Combatant Status Review Tribunal involving ISN #556.

I have no comments.

My comments are attached.

LtCol  USAF
Name

24 JAN 05
Date

Signature 

Personal Representative Review of the Record of Proceedings

I acknowledge that on 21 March 2005 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #556.

I have no comments.

My comments are attached.


Lt Col, USAF

22 March 2005
Date